

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

MOHAMAD BAKIR ALI HABEB,

Defendant-Appellant.

Supreme Court Case No. 45949

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District, in and for the County of Ada.

HONORABLE RICHARD D. GREENWOOD

STATE APPELATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR01-16-35232

State of Idaho
Plaintiff,
vs.
MOHMAD BAKIR ALI HABEB
Defendant.

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§
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§
§
§
§

Location: Ada County District Court
Judicial Officer: Greenwood, Richard D.
Filed on: 10/24/2016
Case Number History: PRE-FILE01-16-1797
Police Reference Number: 16-622376
Prosecutor Control Number: 2016-0001807

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Criminal
Jurisdiction: Boise City Police Department					
1. Assault	I18-901 {M}	MIS	09/12/2016	Case Flags:	No Contact Order Outstanding
Filed As: Assault-Aggravated (With Deadly Weapon or Instrument)			FEL	10/24/2016	Ada County Prosecutor
Arrest: 01BPD - Boise Police Department					
2. Property-Malicious Injury to Property	I18-7001(2)	FEL	09/12/2016		
3. Driving-Reckless	I49-1401(1)	MIS	09/12/2016		

Warrants

Arrest Warrant - HABEB, MOHMAD BAKIR ALI (Judicial Officer: Clerk, Magistrate Court)

12/29/2016	10:59 AM	Warrant Returned Served
12/28/2016	6:56 PM	Served by Sheriff- Paperwork Return Pending
10/24/2016	3:50 PM	Outstanding Arrest Warrant
10/24/2016	3:50 PM	Pending Judge's Signature

Fine: \$0
Bond: \$10,000.00 Any

Bonds

Surety Bond #AC10-7532544 \$10,000.00
10/10/2017 Exonerated
12/28/2016 Posted
Counts: 1, 2

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	CR01-16-35232
Court	Ada County District Court
Date Assigned	02/16/2017
Judicial Officer	Greenwood, Richard D.




PARTY INFORMATION

State	State of Idaho	Lead Attorneys
		Guy, Michael Joseph 208-287-7700(W)
Defendant	HABEB, MOHMAD BAKIR ALI	Rolfsen, Eric Robert Public Defender 208-287-7400(W)

DATE


















EVENTS & ORDERS OF THE COURT

INDEX


















10/24/2016	 Initiating Document - Pre-File Case
10/24/2016	 Warrant/Det Order Issued - Arrest
12/29/2016	 Warrant Returned - Served

000002

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR01-16-35232













12/29/2016	 Bond Receipt and Court Date 01/04/2017
12/29/2016	 Bond Posted - Surety AC10-7532544
01/04/2017	 Arraignment (9:30 AM) (Judicial Officer: Steckel, Daniel L.)
01/04/2017	 Court Minutes
01/04/2017	 Application for Public Defender
01/04/2017	 Notification of Subsequent/Enhanced Penalties
01/04/2017	Order Appointing Public Defender
01/04/2017	 No Contact Order
01/17/2017	 Returned/Undeliverable Mail
01/25/2017	 Preliminary Hearing (8:30 AM) (Judicial Officer: Steckel, Daniel L.)
01/25/2017	 Court Minutes
01/25/2017	Notice of Hearing
01/25/2017	 Response to Request for Discovery and Objections
01/25/2017	 Request for Discovery
02/16/2017	Preliminary Hearing (8:30 AM) (Judicial Officer: Steckel, Daniel L.)
02/16/2017	 Court Minutes
02/16/2017	Notice of Hearing
02/16/2017	Bound Over (after Prelim)
02/16/2017	 Amended Complaint Filed
02/16/2017	 Order for Commitment
02/16/2017	 Court Minutes
02/21/2017	 Information Filed info and booking photo
03/07/2017	Arraignment (2:00 PM) (Judicial Officer: Greenwood, Richard D.)

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR01-16-35232

03/07/2017	 Request for Discovery
03/07/2017	 Court Minutes
03/14/2017	Arraignment (2:00 PM) (Judicial Officer: Greenwood, Richard D.)
03/14/2017	 Court Minutes
03/28/2017	Entry of Plea (2:00 PM) (Judicial Officer: Greenwood, Richard D.)
03/28/2017	 Court Minutes
03/28/2017	Plea (Judicial Officer: Greenwood, Richard D.) 3. Driving-Reckless Not Guilty TCN: :
03/30/2017	 Motion to Disqualify
04/03/2017	 Scheduling Order
05/01/2017	 Order <i>to Disqualify - Judge McKee</i>
07/05/2017	 Response to Request for Discovery
07/19/2017	 Motion <i>in Limine</i>
07/19/2017	 Response to Request for Discovery <i>Addendum to Discovery Response to Court</i>
07/19/2017	 Notice <i>of Presentation of Self-Authenticating Records</i>
07/24/2017	 Motion <i>for expedited prelim transcripts</i>
07/24/2017	 Exhibit List/Log
07/24/2017	 Witness List
07/25/2017	Pre-trial Conference (1:30 PM) (Judicial Officer: Greenwood, Richard D.)
07/25/2017	 Order for Transcript <i>Expedited</i>
07/25/2017	 Court Minutes
07/26/2017	 Notice of Preparation of Transcript

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR01-16-35232

Preliminary Hearing

07/27/2017	 Notice of Hearing
07/28/2017	 Transcript Filed <i>Preliminary Hearing 2.16.17</i>
08/02/2017	Motion Hearing (1:30 PM) (Judicial Officer: Greenwood, Richard D.)
08/02/2017	 Court Minutes
08/08/2017	 Exhibit List/Log <i>/ State's Amended</i>
08/14/2017	Jury Trial (9:00 AM) (Judicial Officer: Greenwood, Richard D.) <i>3 days</i>
08/14/2017	Jury Trial Started
08/14/2017	 Court Minutes
08/14/2017	 Jury Packet <i>Jury Trial Work Product Documentation- Misc Documents</i>
08/16/2017	Jury Trial (8:30 AM) (Judicial Officer: Greenwood, Richard D.) <i>2nd day</i>
08/16/2017	 Court Minutes
08/17/2017	Jury Trial (8:30 AM) (Judicial Officer: Greenwood, Richard D.) <i>Day 3</i>
08/17/2017	Plea (Judicial Officer: Greenwood, Richard D.) 1. Assault Not Guilty TCN: : 2. Property-Malicious Injury to Property Not Guilty TCN: :  Addendum to Pre-Sentence Investigation <i>PSI DOCS</i>
08/17/2017	 Court Minutes
08/17/2017	 Jury Instructions Filed
08/17/2017	 Verdict form <i>Count I</i>
08/17/2017	 Verdict form


ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR01-16-35232

Count II

08/17/2017  Verdict form
Count III

08/17/2017 **Disposition** (Judicial Officer: Greenwood, Richard D.)

1. Assault
Guilty (After Trial)
TCN: :
2. Property-Malicious Injury to Property
Guilty (After Trial)
TCN: :
3. Driving-Reckless
Guilty (After Trial)
TCN: :

08/25/2017  Order for Pre-Sentence Report (PSI)

08/25/2017  PSI Face Sheet

10/02/2017  Pre-Sentence Report

10/10/2017 **Sentencing** (9:00 AM) (Judicial Officer: Greenwood, Richard D.)

10/10/2017  Court Minutes

10/10/2017 **Sentence** (Judicial Officer: Greenwood, Richard D.)

1. Assault
Misdemeanor Sentence
Fee Totals:
 Court Costs - Misd
 - Other State Laws 157.50
 (BC)
Fee Totals \$ 157.50
Confinement
 Type:
 Facility: Ada County Jail
 Term: 30 Days
 Effective Date: 10/10/2017
 Concurrent with other charge - this case
 Credit Term: 1 Day
Fee Totals:
 Restitution (PA) 5,860.45
 (Interest Bearing)
Fee Totals \$ 5,860.45

10/10/2017 **Sentence** (Judicial Officer: Greenwood, Richard D.)

3. Driving-Reckless
Misdemeanor Sentence
Fee Totals:
 Court Costs - Misd
 - Motor Vehicle 157.50
 (BC)
Fee Totals \$ 157.50
Confinement
 Type:
 Facility: Ada County Jail


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ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE No. CR01-16-35232


Term: 60 Days
Effective Date: 10/10/2017
Concurrent with other charge - this case
Credit Term: 1 Day
License Suspension
Type: Driver's License
Duration: 90 Days
Suspension Date: 10/10/2017


10/10/2017 **Sentence** (Judicial Officer: Greenwood, Richard D.)
2. Property-Malicious Injury to Property
Withheld Judgment
Fee Totals:
Court Costs -
Felony - Other 245.50
State Laws
Fee Totals \$ 245.50
Confinement
Type:
Facility: Ada County Jail
Term: 90 Days
Discretionary: 0 Day
Effective Date: 10/10/2017
Concurrent with other charge - this case
Credit Term: 1 Day
Work Release
Comment: has 14 days to report - no later than 5:00 pm on 10.23.17
Condition - Adult:
1. Supervised Probation, Obey all laws. Maintain Contact w/Probation. Comply
w/sentence including fine payment., 3Y, 10/10/2017, 10/16/2017


10/10/2017 Case Final Judgment Entered


10/12/2017  Order Withholding Judgment

10/16/2017  Order
Custody


12/04/2017  Motion
for Order for Restitution and Judgment

12/08/2017  Miscellaneous
signed court order


12/11/2017  Notice of Hearing

12/11/2017  Motion
to Object State's Amount Restitution







01/18/2018 **CANCELED Restitution Hearing** (3:00 PM) (Judicial Officer: Greenwood, Richard D.)
Vacated

02/06/2018  Deferred Payment Agreement

02/08/2018 **Restitution Hearing** (3:00 PM) (Judicial Officer: Greenwood, Richard D.)

02/08/2018  Court Minutes

CASE SUMMARY**CASE No. CR01-16-35232**

02/08/2018	 Exhibit List/Log
03/14/2018	 Order on Restitution
03/19/2018	 Order of Restitution and Judgment
03/19/2018	Interest Ordered on Restitution Int Start Dt: 03/19/2018
04/02/2018	Appeal Filed in Supreme Court
04/02/2018	 Notice of Appeal
04/09/2018	 Order Appointing State Appellate Public Defender
06/05/2018	 Notice of Transcript Lodged - Supreme Court No. 45949

DATE**FINANCIAL INFORMATION****Defendant HABEB, MOHMAD BAKIR ALI**

Total Charges

6,431.95

Total Payments and Credits

205.00

Balance Due as of 6/5/2018**6,226.95**

OCT 24 2016

CHRISTOPHER D. RICH, Clerk
By VIOLETA GARCIA
DEPUTY

DR#: 16-622376
Control #: 2016-0001807

JAN M. BENNETTS
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
MOHAMAD BAKIR ALI HABEB,)
)
Defendant.)
_____)

Case No. CR01-16-35232

COMPLAINT



PERSONALLY APPEARED BEFORE me this 24th day of October, 2016, Jill Longhurst, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says that: MOHAMAD BAKIR ALI HABEB, on or about the 12th day of September, 2016, in the County of Ada, State of Idaho, did commit the crime(s) of: I. AGGRAVATED ASSAULT, FELONY, I.C. §18-901(a), 905(b) and II. MALICIOUS INJURY TO PROPERTY, FELONY, I.C. §18-7001(2) as follows:

COUNT I

That the defendant, MOHAMAD BAKIR ALI HABEB on or about the 12th day of September 2016, in the County of Ada, State of Idaho, did unlawfully and with apparent ability,

attempt to commit a violent injury upon the person of Mazin Al Rubaye by a means likely to produce great bodily harm, to-wit: by swinging a baseball bat forcefully at Mazin Al Rubaye's face and upper body.

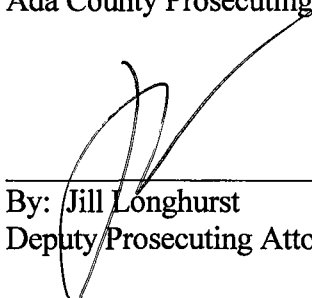
COUNT II

That the defendant, MOHAMAD BAKIR ALI HABEB, on or about the 12th day of September 2016, in the County of Ada, State of Idaho, did maliciously injure certain personal property, to-wit: a 2011 Hyundai Elantra, the property of Hazim A. Al Rubaye, by hitting the vehicle with a bat, and where the damage caused by such injury or destruction is of a value in excess of One Thousand Dollars (\$1,000).

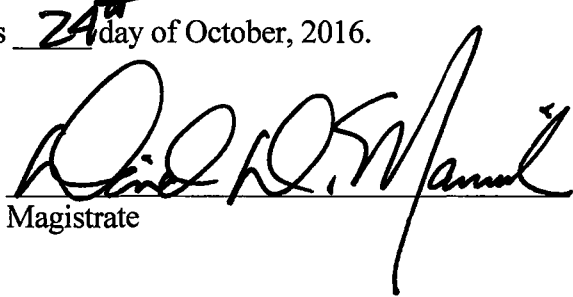
All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

Said Complainant therefore prays that a Warrant issue for the arrest of the Defendant(s), and that MOHAMAD B HABEB may be dealt with according to law.

JAN M. BENNETTS
Ada County Prosecuting Attorney


By: Jill Longhurst
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 24th day of October, 2016.


Magistrate

mui 7278253

NO. _____
A.M. 9 FILED P.M. _____

DR#: 16-622376
OFFICER: VICKHAMMER
AGENCY: BPD

DEC 29 2016
CHRISTOPHER D. RICH, Clerk
By RACHAEL WEATHERBY
DEPUTY

JAN M. BENNETTS
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
MOHMAD BAKIR ALI HABEB,)
)
Defendant.)
)

Case No. CR01-16-35232-1

ARREST WARRANT

Address: 4911 ALBION ST APT103 BOISE ID 83705

Sex: Male Race: Unknown Height: 5'7" Weight: 190
Hair/Eyes: Blk/Bro

TO ANY SHERIFF, CONSTABLE, MARSHAL OR POLICEMAN IN THE STATE
OF IDAHO:

A COMPLAINT UPON OATH having been this day laid before me by Jill Longhurst,
Deputy Prosecuting Attorney, stating that the crime(s) of: I. AGGRAVATED ASSAULT,
FELONY, I.C. 18-901(a), 905(b) and II. MALICIOUS INJURY TO PROPERTY, FELONY, I.C. 18-901(a), 905(b)

ARREST WARRANT (HABEB) Page 1

ARRESTED
ADA COUNTY SHERIFF

RECEIVED
Ada County Sheriff
WARRANTS

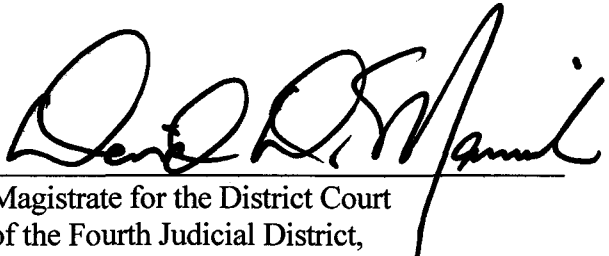
OCT 25 2016
000011

Stephen Bartlett, Sheriff
BOISE IDAHO

§18-7001(2) have been committed, and accusing MOHMAD BAKIR ALI HABEB thereof and having found probable cause;

YOU ARE THEREFORE COMMANDED to immediately arrest the defendant named above at any time during the day or night, and to bring him/her before me at my office in the County of Ada, or in case of my absence or inability to act, before the nearest or most accessible Magistrate in Ada County.


DATED this 24th day of October, 2016.


Magistrate for the District Court
of the Fourth Judicial District,
Magistrate Division

Bond \$ 10,000.00

RETURN OF SERVICE

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the defendant and bringing him into Court this 28 day of December, 2016.

 #1332
(Deputy Sheriff) (State Policeman)
(City Policeman)

COMMITMENT FOR EXAMINATION AFTER APPEARANCE

THE WITHIN NAMED Defendant, having been brought before me under this Warrant, is committed for examination to the Sheriff of Ada County, State of Idaho, and is admitted to bail in the sum of \$_____, surety, cash or by undertaking of two sufficient sureties, and is committed to the custody of the Sheriff of Ada County until such bail is given. This Cause is continued for further appearance until _____ day of _____, 2016.

Magistrate for the District Court
of the Fourth Judicial District,
Magistrate Division

ORDER OF RELEASE

TO THE SHERIFF OF ADA COUNTY, IDAHO:

YOU ARE HEREBY ORDERED to release the Defendant from your custody.

DATED:

Magistrate for the District Court
of the Fourth Judicial District,
Magistrate Division

NCIC ENTRY: (Additional Levels Inclusive)

- ☐ Idaho Only
- ☐ North West Shuttle (ID, WA, OR)
- ☐ Western States (ID, WA, OR, MT, CA, WY, SD, ND, UT, CO,
AZ, NV)
- ☐ Nationwide

BY: _____

DATED: _____

IN THE DISTRICT COURT OF THE 4TH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA.

THE STATE OF IDAHO,
Plaintiff,

vs.

HABEB, MOHMAD
Defendant

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

NOTICE OF COURT DATE

NO. AND 9 FILED
A.M. P.M.

BOND RECEIPT DEC 29 2016

CHRISTOPHER D. RICH, Clerk
By RACHAEL WEATHERBY
DEPUTY

You are hereby notified that you must appear before the Court Clerk,
on 1/4/2017 at 09:30 A.M.

ADA County Courthouse
200 W. Front Street
Boise, ID 83702

You are further notified that if you fail to appear as specified herein, your bond will be
forfeited and a Warrant of Arrest will be issued against you.

Charge #1 AGG. ASSAULT	Bond Amount \$10,000.00	Case # CR01-16-35232	Bond # AC10-7532544	Bond Type Cash <input type="checkbox"/> Surety <input checked="" type="checkbox"/>
Charge #2	Bond Amount	Case #	Bond #	Bond Type Cash <input type="checkbox"/> Surety <input type="checkbox"/>
Charge #3	Bond Amount	Case #	Bond #	Bond Type Cash <input type="checkbox"/> Surety <input type="checkbox"/>
Charge #4	Bond Amount	Case #	Bond #	Bond Type Cash <input type="checkbox"/> Surety <input type="checkbox"/>
Charge #5	Bond Amount	Case #	Bond #	Bond Type Cash <input type="checkbox"/> Surety <input type="checkbox"/>
Charge #6	Bond Amount	Case #	Bond #	Bond Type Cash <input type="checkbox"/> Surety <input type="checkbox"/>

Bonding Agency/Person: ALADDIN BAIL BONDS		
Address: 80 N. COLE ROAD		
City: BOISE	State: ID	Zip Code: 83704
Bondsman: BENJAMIN WOJTAS		

This is to certify that I have received a copy of this NOTICE TO APPEAR.
I understand that I am being released on the conditions of posting bail and my promise to
appear in court at the time, date and place described in this notice.

[Signature]
Defendant Signature

12/28-16
Date

Printed: 12/28/2016 09:00 PM By:NM5549(Initials & ADA#)

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

Mohammad Habeb

Defendant.

MAGISTRATE MINUTES / NOTICE OF HEARING

☐ **PRE-TRIAL MEMORANDUM**

Case Number:

CR011635232

Event Date:

1-4-17

Judge:

Steele

Clerk:

SB

Case Called:

939/952

☐ In Chambers

☐ Interpreter:

☒ AC ☐ BC ☐ EA ☐ GC ☐ MC ☒ SWENSTEN PD / Private _____
Defendant: ☒ Present ☐ Not Present ☐ In Custody ☒ PD Appointed ☐ PD Denied ☐ Waived Attorney
☐ Defendant failed to appear. Bond forfeited/ROR revoked. Bench Warrant issued. Bond \$ _____
☒ Advised Rights ☐ Not Guilty ☐ Guilty / Admit ☐ Written Guilty Plea ☐ No Contact ☐ Pre-Trial Release Order

☐ Release Defendant, This Case Only

NOTICE OF HEARING

☐ **Sentencing** on _____ at _____ am/pm w/ Judge _____
☐ **Court Trial Conference** on _____ at _____ am/pm w/ Judge _____
☐ **Court Trial** on _____ at _____ am/pm w/ Judge _____
☐ **Pre-Trial Conference** on _____ at _____ am/pm w/ Judge _____
☐ **Jury Trial** on _____ at _____ am/pm w/ Judge _____

☒ **Prelim** on **1-25-17** at **8:30** am/pm w/ Judge **Steele**

☒ Contact the Ada County Public Defender, 200 W. Front St., Rm. 1107, Boise, ID 83702, telephone (208) 287-7400.

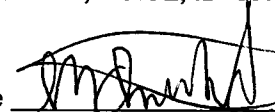
You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest, or default judgment may be entered if you are charged with an infraction.

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

I hereby certify that copies of this notice were served as follows:

Defendant: Hand Delivered ☒ Via Counsel ☐
Defense Atty: Hand Delivered ☐ Intdept Mail ☐
Prosecutor: Hand Delivered ☒ Intdept Mail ☐

Signature



CHRISTOPHER D. RICH, Clerk of the District

By:

Deputy Clerk

CR01-16-35232
CMIN
Court Minutes
213890



Magistrate Judge (for Pre-Trial Memorandum)

DATED

1-4-17

MAGISTRATE MINUTES / NOTICE OF HEARING

000015

[REV 10-2013]

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

MOHAMMAD BAKIR ALI HABEB

Defendant.

) Case No. CR01-16-35232

) DR # 2016-622376

) Law Enforcement Agency BPD

) Expires at 11:59 P.M. on 1/4/17

) or upon dismissal of this case.

) NO CONTACT ORDER ☐ AMENDED

The Court finds that a no contact order is appropriate in this case, therefore, it is hereby ordered that you, the above-named Defendant, shall not engage in any of the following conduct with regard to the person(s) listed below. You shall not contact or attempt to contact (including in person or through another person, or in writing or email, or by telephone, pager, or facsimile) the person(s) named below in any manner. Prohibited contact includes that you shall not harass, stalk, threaten, engage in any other conduct that would place the person(s) named below in reasonable fear of bodily injury, knowingly follow and knowingly remain within 100 feet of the following person(s):

MAZIN AL RUBAYE

Exceptions are as follows:

- ☒ no exceptions
☐ to contact by telephone between _____ .M. and _____ .M. on _____
for the following purposes: _____
☐ to participate in counseling/mediation
☐ to provide for the exchange of children between the parties through: _____
☐ to retrieve personal necessities from the residence/protected address one time through: _____
☐ to meet with or through attorneys and/or during legal proceedings
☐ to respond to emergencies involving the parties' natural or adopted children
☐ other: _____

It is further ordered that you shall not go within 900 feet (300 yards) of the following address(es):

Residence Address

Work Address

Defendant appeared or had actual notice of this hearing and had the opportunity to participate, present evidence, and make argument against the entry of this order: ☒ YES / ☐ NO

A violation of this order is a separate crime under Idaho Code § 18-920, for which no bail will be set until you appear before a judge. The maximum penalty for a violation of this order is one year in jail and/or up to a \$1000 fine. However, if the violation is a third offense, the violation is a felony, which is punishable by imprisonment in the state prison for up to five years and/or up to a \$5000 fine.

Only a judge can modify this order. If more than one protection order/no contact order is in place, the most restrictive prohibition controls, whether in a civil or criminal case.

You may be subject to federal prosecution if you possess, receive, or transport a firearm or ammunition while a no contact order is in place. 18 U.S.C. § 922.

Defendant

Date

Judge

Date

Served by: Carl Wood

Law Enforcement Identification Number: 837

Date served: 1/4/17 09:55

CR01-16-35232
NCO
No Contact Order
213233



NO CONTACT ORDER ☐ FILE ☐ ACSO ☐ PROSECUTOR ☐ DEFENSE ATTORNEY

[PROPOSED REV 06-29-2016]

CR01-16-35232
CMIN
Court Minutes
227416



FILED 1/25/17 AT 9:23 M.
CHRISTOPHER D. RICH,
CLERK OF THE DISTRICT COURT
BY MW Deputy

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

PRELIMINARY HEARING NOTICE / MINUTE SHEET

STATE OF IDAHO,

Plaintiff,

vs.

Mohmad B.A. Habeb
Defendant.

Case Number: CR01-16-35232

Judge: Swain Lawton for Steckel

Case Called: 092300 ☐ In Chambers

☒ Ada ☐ Special Hunt

☐ PD ☐ PD Appointed / Private Waller

☐ Interpreter

Defendant: ☒ Present ☐ Not Present ☐ In Custody Bond \$ _____ B/F _____ B/W _____

☒ Posted Bond \$ 10,000 ☐ PTRO ☒ NCO ☐ Advised of Rights ☐ Waive Rights ☐ Waive Time

☐ Motion/Stipulation for: ☐ Bond Reduction ☐ Amended NCO Denied / Granted _____

☐ Amended Complaint Filed ☐ Complaint Amended by Interlineation ☐ Reading of Complaint Waived

☐ Rule11 Plea Agreement w/ DVC Offer Sheet ☐ Guilty Plea(s) Entered _____ Accepted _____

☐ State ☒ Defense ☐ Mutual -- Request for Continuance _____ ☐ Objection ☒ No Objection

☒ Case continued to 2/16/17 at 8:30 am/pm for _____

☐ Defendant Waives Preliminary Hearing ☐ Hearing Held ☐ Commitment Signed

☐ Case Bound Over to Judge _____ on _____ at _____ am/pm

☐ Order for §18-211 Evaluation, requested by: ☐ Prosecutor ☐ Defense ☐ Order §18-212 Commitment

☐ Case Dismissed by Court after Hearing / On State's Motion ☐ Release Defendant, This Case Only

☐ Consolidated w/ _____

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

I hereby certify that copies of this notice were served as follows:

Defendant: ☒ Hand Delivered ☐ Via Counsel

Signature: [Signature]

Defense Atty: ☐ Hand Delivered ☐ Intdept Mail

Prosecutor: ☒ Hand Delivered ☐ Intdept Mail

By: MW
Deputy Clerk

DATED 1/25/17

JAN M. BENNETTS
Ada County Prosecuting Attorney

David M. Hunt
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-35232
)	
vs.)	
	)	PRELIMINARY HEARING
MOHAMAD B. A. HABEB,	)	RESPONSE TO REQUEST FOR
	)	DISCOVERY AND OBJECTIONS
)	
Defendant.)	
_____)	

COMES NOW, David M. Hunt, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and submits the following Preliminary Hearing Response to the Request for Discovery and Objections and informs the Court that the State has complied with the Defendant's Request for Discovery as outlined below.

I. DISCLOSURES

16-A Brady-Agurs Disclosure: The prosecution is unaware of any evidence that is exculpatory on its face relating to the offense charged.

With regard to evidence that may be exculpatory as used or interpreted, the prosecution requests that the defense counsel submit, in writing, the defense to be asserted in this case so the prosecution can review its file to determine if any facts, evidence or witnesses may be material to the preparation of that defense. In the alternative, the prosecution offers to defense counsel an

open file policy to review those documents in the control and possession of the prosecution that may be exculpatory in some manner to the offense charged.

16-B Stipulation - Request Disclosure:

1. Statement of Defendant: The State has complied with discovery by providing the known statements of the Defendant that are contained in documents and items the State currently has in its possession and will comply with discovery as more information becomes available, as follows:

- a. Audio Taped Confession/Statement, if any exists
- b. Video Taped Confession/Statement, if any exists
- c. Written Confession/Statement, if any exists
- d. As reflected in Police Reports
- e. As reflected in booking sheets

Be advised: As you are aware, the Ada County Jail video records inmate video conversations your client has with individuals other than your client's lawyer while incarcerated at the Ada County Jail. The visual or the images of the recorded calls are kept for only 30 days of the date of the conversation, although the audio portion of the video recordings are maintained indefinitely. Please contact the handling prosecuting attorney to make an appointment to view those video calls should you desire to do so before they drop off the system.

2. Statement of Co-Defendant: See disclosed police reports for statements of Co-Defendant, if any exists.

- 3. Defendant's Prior Record:** The Defendant's prior record disclosed in the following:
- a. NCIC report

4A. Documents and Tangible Objects: Police Reports, Witness Statements, Medical Records and/or other tangible documents in possession of the Ada County Prosecutor's Office as of the date of filing of this document disclosed as State's pages 1 through 48, including an NCIC consisting of seven (7) pages. Pursuant to I.C.R. 16(d), the State has provided an unredacted discovery packet for defense counsel and a redacted packet of discovery for the defendant. The unredacted packet of discovery is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

The State is providing audio and/or video recordings. The State is providing unredacted digital media for your use pursuant to Idaho Criminal Rule 16(b)(9). The digital media being disclosed contains:

- ☐ **Protected Information and is marked “Confidential and Unredacted.”** The unredacted digital media has been disclosed to expedite a resolution. Rule 16 provides that unredacted digital media, so disclosed, may not be shared with the defendant absent consent by the State. If you wish to permit the defendant to view the unredacted digital media, marked “Confidential and Unredacted,” please contact the handling attorney to request consent. If you wish to have a redacted copy of the media, please contact the handling attorney, as well.

The State is providing certain documents, photographs and other items in electronic format, on the attached discs. A redacted copy of these documents has been provided and is clearly marked. If you wish to print the **unredacted copy**, which is on the disc marked, “**Confidential and Unredacted**,” you must do so on **colored paper**, per Idaho Criminal Rule 16 (d)(4). Unredacted discovery is not to be disclosed to the defendant or to the defendant’s family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

B. Photographs: The State will comply with such request as it receives photographs, maps, charts or diagrams, if any exist, in this case.

5. Reports of Examinations and Tests:

- ☐ The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.
- ☐ These documents are specifically identified in subsection 4A above.

6. Witnesses: A list of names identifying witnesses and protected contact information has been provided to defense counsel in a letter under separate cover, which is not to be disclosed to the defendant or to the defendant’s family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. The State has provided to defense counsel a separate redacted witness list excluding protected information that can be shared with the defendant.

7. Expert Witnesses: The State will comply with such request as it identifies expert witnesses, if any exist, in this case.

- ☐ The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.
- ☐ These witnesses have been identified in a letter to defense counsel as described above in subparagraph 6 above.

8. Police Reports: The State possesses police reports, witness statements and other documents which are available upon request. These documents are specifically identified in subparagraph 4(A) above.

II. OBJECTIONS

A. The State has excluded the identity of the Confidential Informant from this Discovery Response. The grounds for this objection is/are as follows. Pursuant to I.C.R. 16(g)(2) and I.R.E. 509, the identity of a Confidential Informant is excluded unless said Informant is to be produced as a witness at a hearing or trial, subject to any protective order under I.C.R. 16(l) or a disclosure order under Rule 16(b)(9).

B. The State objects to any items in the defendant's request for discovery that would be in violation of state or federal law as follows and requests that if this Court rules that disclosure is required, that this Court also issue a protective order pursuant to I.C.R. 16(l):

- ☒ NCIC criminal history for all witnesses. The State is not permitted to use NCIC for this purpose pursuant to federal law and hereby objects to providing this material.
- ☒ A police officer(s)' internal affairs files and/or other personnel documents. Personnel documents are confidential matters pursuant to State law. The State hereby objects to providing this material.
- ☐ Other

RESPECTFULLY SUBMITTED this 25 day of January, 2017.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: David M. Hunt
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of January, 2017, I caused to be served, a true and correct copy of the foregoing Preliminary Hearing Response to Request for Discovery and Objections upon the individual(s) named below in the manner noted:

Nick Wollen, 200 W. Front St., Ste. 1107, Boise, ID 83702

☐ By iCourt eFile & Serve

CBright

JAN M. BENNETTS
Ada County Prosecuting Attorney

David M. Hunt
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-35232
)	
vs.	)	REQUEST FOR DISCOVERY
)	
MOHAMAD B. A. HABEB,)	
)	
Defendant.)	
_____)	

TO THE ABOVE NAMED DEFENDANT:

PLEASE TAKE NOTICE that the undersigned, pursuant to Rule 16 of the Idaho Criminal Rules, requests Discovery and inspection of the following:

(1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the possession, custody or control of the defendant, and which the defendant intends to introduce in evidence at trial.

(2) Reports of Examinations and Tests:

The prosecution hereby requests the defendant to permit the State to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce in evidence at the trial, or which were prepared by a witness whom the defendant intends to call at the trial when the results or reports relate to testimony of the witness.

(3) Defense Witnesses:

The prosecution requests the defendant to furnish the State with a list of names and addresses of witnesses the defendant intends to call at trial.

(4) Expert Witnesses:

The prosecution requests the defendant to provide a written summary or report of any testimony that the defense intends to introduce pursuant to Idaho Criminal Rule 16(c)(4), including the facts and data supporting the opinion and the witness's qualifications.

(5) Pursuant to Idaho Code Section 19-519, the State hereby requests that the defendant state in writing within ten (10) days any specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

DATED this the 25 day of January, 2017.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: David M. Hunt
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this the 25th day of January, 2017, I caused to be served, a true and correct copy of the foregoing Request for Discovery upon the individual(s) named below in the manner noted:

Nick Wollen, 200 W. Front St., Ste. 1107, Boise, ID 83702

☐ By iCourt eFile and Serve.

CBright

Legal Assistant



FILED 2/16/17 AT 3:16 M.
CHRISTOPHER D. RICH,
CLERK OF THE DISTRICT COURT
BY [Signature]
Deputy

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

PRELIMINARY HEARING NOTICE / MINUTE SHEET

STATE OF IDAHO,

Plaintiff,

vs.

Mohammad Bakir Ali Habeb
Defendant.

Case Number: CR01-16-35232

Judge: Steckel

Case Called: 95658/023907 ☐ In Chambers

☒ Ada ☐ Special D. Hunt

☒ PD ☐ PD Appointed /Private N. Wollen

☐ Interpreter _____

Defendant: ☒ Present ☐ Not Present ☐ In Custody Bond \$ _____ B/F _____ B/W _____

☒ Posted Bond \$ 10,000.00 ☐ PTRO ☒ NCO ☐ Advised of Rights ☐ Waive Rights ☐ Waive Time

☐ Motion/Stipulation for: ☐ Bond Reduction ☐ Amended NCO Denied /Granted _____

☐ Amended Complaint Filed ☐ Complaint Amended by Interlineation ☐ Reading of Complaint Waived

☐ Rule11 Plea Agreement w/ DVC Offer Sheet ☐ Guilty Plea(s) Entered _____ Accepted _____

☐ State ☐ Defense ☐ Mutual -- Request for Continuance _____ ☐ Objection ☐ No Objection

☐ Case continued to _____ at _____ am/pm for _____

☐ Defendant Waives Preliminary Hearing ☒ Hearing Held ☒ Commitment Signed

☒ Case Bound Over to Judge Greenwood on 3-07-17 at 2:00 am/pm

☐ Order for §18-211 Evaluation, requested by: ☐ Prosecutor ☐ Defense ☐ Order §18-212 Commitment

☐ Case Dismissed by Court after Hearing / On State's Motion ☐ Release Defendant, This Case Only

☐ Consolidated w/ _____

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

I hereby certify that copies of this notice were served as follows:

Defendant: ☒ Hand Delivered ☐ Via Counsel

Signature [Signature]

Defense Atty: ☐ Hand Delivered ☐ Intdept Mail

Prosecutor: ☒ Hand Delivered ☐ Intdept Mail

By: [Signature]
Deputy Clerk

DATED 2/16/17



FEB 16 2017


CHRISTOPHER D. RICH, Clerk
By CINDY HO
DEPUTY

DR#: 16-622376
Control #: 2016-0001807

JAN M. BENNETTS
Ada County Prosecuting Attorney

David M. Hunt
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,)	
	)	Case No. CR01-16-35232
vs.)	
	)	A M E N D E D
MOHAMAD BAKIR ALI HABEB,	)	C O M P L A I N T
)	
Defendant.)	
_____)	

PERSONALLY APPEARED BEFORE me this 16 day of ~~January~~ ^{Feb} 2017, David M. Hunt, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says that: MOHAMAD BAKIR ALI HABEB, on or about the 12th day of September, 2016, in the County of Ada, State of Idaho, did commit the crime(s) of: I. AGGRAVATED ASSAULT, FELONY, I.C. §18-901(b), 905(a), II. MALICIOUS INJURY TO PROPERTY, FELONY, I.C. §18-7001(2) and III. RECKLESS DRIVING, MISDEMEANOR, I.C. § 49-1401(1),(2) as follows:

COUNT I

That the Defendant, MOHAMAD BAKIR ALI HABEB, on or about the 12th day of September 2016, in the County of Ada, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by word and/or act to do violence upon the person of Mazin Al Rubaye, with a deadly weapon or instrument, to wit: a baseball bat, which created a well-founded fear in Mazin Al Rubaye that such violence was imminent.

COUNT II

That the defendant, MOHAMAD BAKIR ALI HABEB, on or about the 12th day of September 2016, in the County of Ada, State of Idaho, did maliciously injure certain personal property, to-wit: a 2011 Hyundai Elantra, the property of Hazim Al Rubaye, by hitting the vehicle with a bat, and where the damage caused by such injury or destruction is of a value in excess of One Thousand Dollars (\$1,000).

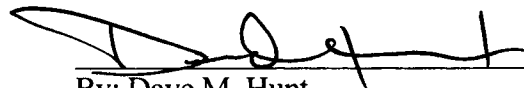
COUNT III

That the defendant, MOHAMAD BAKIR ALI HABEB, on or about the 12th day of September 2016, in the County of Ada, State of Idaho, did operate a motor vehicle, to-wit: a 2000 Ford Explorer on or about Alamosa and James St., carelessly and heedlessly without due caution and circumspection and at a speed or in a manner to be likely to endanger persons or property by chasing the vehicle driven by Mazin Al Rubaye in a residential neighborhood in the presence of children at excessive speeds.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

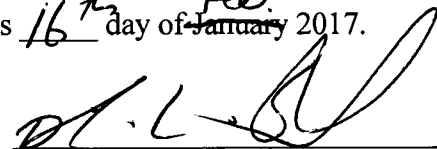
JAN M. BENNETTS

Ada County Prosecuting Attorney



By: Dave M. Hunt
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 16th day of ~~January~~ ^{Feb.} 2017.



Magistrate




FEB 16 2017

CHRISTOPHER D. RICH, Clerk
By CINDY HO
DEPUTY

JAN M. BENNETTS
Ada County Prosecuting Attorney

David M. Hunt
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho.83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-35232
)	
vs.	)	COMMITMENT
)	
MOHAMAD BAKIR ALI HABEB,)	
)	
Defendant.)	
_____)	

THE ABOVE-NAMED DEFENDANT, MOHAMAD BAKIR ALI HABEB, having been brought before this Court for a Preliminary Examination on the 16th day of Feb 2017, on a charge that the defendant on or about the 12th day of September 2016, in the County of Ada, State of Idaho, did commit the crime(s) of: I. AGGRAVATED ASSAULT, FELONY, I.C. §18-901(b), 905(a), II. MALICIOUS INJURY TO PROPERTY, FELONY, I.C. §18-7001(2) and III. RECKLESS DRIVING, MISDEMEANOR, I.C. § 49-1401(1),(2) as follows:

COUNT I

That the Defendant, MOHAMAD BAKIR ALI HABEB, on or about the 12th day of September 2016, in the County of Ada, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by word and/or act to do violence upon the person of Mazin Al Rubaye,

with a deadly weapon or instrument, to wit: a baseball bat, which created a well-founded fear in Mazin Al Rubaye that such violence was imminent.

COUNT II

That the defendant, MOHAMAD BAKIR ALI HABEB, on or about the 12th day of September 2016, in the County of Ada, State of Idaho, did maliciously injure certain personal property, to-wit: a 2011 Hyundai Elantra, the property of Hazim Al Rubaye, by hitting the vehicle with a bat, and where the damage caused by such injury or destruction is of a value in excess of One Thousand Dollars (\$1,000).

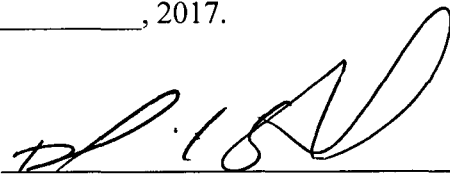
COUNT III

That the defendant, MOHAMAD BAKIR ALI HABEB, on or about the 12th day of September 2016, in the County of Ada, State of Idaho, did operate a motor vehicle, to-wit: a 2000 Ford Explorer on or about Alamosa and James St., carelessly and heedlessly without due caution and circumspection and at a speed or in a manner to be likely to endanger persons or property by chasing the vehicle driven by Mazin Al Rubaye in a residential neighborhood in the presence of children at excessive speeds.

The defendant having so appeared and having had/having waived preliminary examination, the Court sitting as a Committing Magistrate finds that the offense charged as set forth has been committed in Ada County, Idaho, and that there is sufficient cause to believe that the defendant is guilty of committing the offense as charged.

WHEREFORE, IT IS ORDERED that the defendant be held to answer to the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, to the charge herein set forth. Bail is set in the sum of \$ 10,000 -.

DATED this 16th day of Feb, 2017.



MAGISTRATE

Time	Speaker	Note
02:39:05 PM		
02:39:07 PM	Case Called	Mohmad Habeb CR01-16-35232 On Bond for Prelim Hearing
02:39:11 PM	States Attorney	David Hunt
02:39:12 PM	Defense Attorney	Nick Wollen
02:39:27 PM	States Attorney	Motion to File Amended Complaint
02:40:12 PM	Defense Attorney	No Objection/Waive Reading of Complaint
02:40:13 PM	Judge	CT Accepts and Files Amended Complaint
02:40:16 PM	States Attorney	Calls SW #1 aoarubay /Sworn
02:41:43 PM	States Attorney	DX SW #1
02:42:12 PM	Interpreter	Abdulkareem Shamdeen (Arabic)
02:48:20 PM	Defense Attorney	Objection
02:48:25 PM	States Attorney	Response
02:48:35 PM	Judge	Sustained
02:52:41 PM	Defense Attorney	CX SW #1
02:57:01 PM	States Attorney	Objection/Relevance
02:57:05 PM	Defense Attorney	Response/Withdraw
02:57:10 PM	Judge	Sustained
02:57:24 PM	States Attorney	Objection/Relevance
02:57:25 PM	Defense Attorney	Response/withdraw
03:02:39 PM	Judge	Nothing further witness steps down
03:02:55 PM	States Attorney	Calls SW #1 Officer Brad Vickhammer/Sworn
03:04:29 PM	States Attorney	DX SW #1
03:10:14 PM	Defense Attorney	CX SW #1
03:13:02 PM	Judge	Nothing further witness steps down/Excused
03:13:12 PM	States Attorney	Submit closing argument on evidence presented/reserve rebuttal
03:13:16 PM	Defense Attorney	Submit

CR01 - 16 - 35232
 CMIN
 Court Minutes
 242941



03:13:19 PM	Judge	CT finds that the State has proved there is enough evidence to provide probable cause to sign Commitment and bind case over to District Court with Judge Greenwood on 3/07/2017 @ 2:00 pm for AR and further proceedings
03:15:09 PM		End of Case
03:15:09 PM		

JAN M. BENNETTS

Ada County Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-35232
)	
vs.)	
	)	I N F O R M A T I O N
MOHAMAD BAKIR ALI HABEB,)	
)	
Defendant.)	
_____)	

JAN M. BENNETTS, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that MOHAMAD BAKIR ALI HABEB is accused by this Information of the crime(s) of: I. AGGRAVATED ASSAULT, FELONY, I.C. §18-901(b), 905(a), II. MALICIOUS INJURY TO PROPERTY, FELONY, I.C. §18-7001(2) and III. RECKLESS DRIVING, MISDEMEANOR, I.C. § 49-1401(1),(2) which crime(s) were committed as follows:

COUNT I

That the Defendant, MOHAMAD BAKIR ALI HABEB, on or about the 12th day of September 2016, in the County of Ada, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by word and/or act to do violence upon the person of Mazin Al Rubaye,

with a deadly weapon or instrument, to wit: a baseball bat, which created a well-founded fear in Mazin Al Rubaye that such violence was imminent.


COUNT II

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All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.



JAN M. BENNETTS
Ada County Prosecuting Attorney

Ada County Mugshot

JID	Name		
01106580	HABEB MOHAMAD		
Gender	Race	Ethnicity	
Male			
Hair Color	Eye Color	Height	Weight
Black	Brown	507	175
First Surname	First Given Name	Name Type	
HABEB	MOHAMAD	Alias	
		Alias	
		Primary	

Mark Code	Mark Description	
Type	Number	Issuer
		ID

ADA COUNTY PUBLIC DEFENDER
Attorney for Defendant

ERIC R. ROLFSEN, ISB #3731
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

MOHAMAD B. A. HABEB,

Defendant.

Case No. CR01-16-35232

REQUEST FOR DISCOVERY

TO: THE STATE OF IDAHO, Plaintiff, and to the Ada County Prosecutor:

PLEASE TAKE NOTICE, that the undersigned requests discovery and photocopies of the following information, evidence, and materials pursuant to ICR 16:

- 1) All unredacted material or information within the prosecutor's possession or control, or which thereafter comes into their possession or control, which tends to negate the guilt of the accused or tends to reduce the punishment therefore. ICR 16(a).
- 2) Any unredacted, relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody, or control of the prosecution, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence; and also the substance of any relevant, oral statement made by the defendant whether before or after arrest to a peace officer, prosecuting attorney, or the prosecution's agent; and the recorded testimony of the defendant before a grand jury that relates to the offense charged.
- 3) Any unredacted, written or recorded statements of a co-defendant; and the substance of any relevant oral statement made by a co-defendant whether before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer or agent of the prosecuting attorney.
- 4) Any prior criminal record of the defendant and co-defendant, if any.
- 5) All unredacted documents and tangible objects as defined by ICR 16(b)(4) in the possession or control of the prosecutor that are material to the defendant, intended for use by the prosecutor or obtained from or belonging to the defendant or co-defendant.
- 6) All reports or physical or mental examinations and of scientific tests or experiments within the possession, control, or knowledge of the prosecutor, the existence of which is known or is available to the prosecutor by the exercise of due diligence.
- 7) A written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions of any such person which is within the knowledge of the prosecuting attorney. Additionally, the defense requests **ALL** statements (written or oral, recorded, or unrecorded) made by ALL prosecution witnesses or prospective prosecution

witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case (including, but not limited to police officers, investigators, and victim-witness coordinators).

- 8) A list of all benefits offered to the alleged victim for being a "victim" of crime (including, but not limited to financial assistance, free or reduced-cost legal representation, housing, or U-Visa certification).
- 9) Unredacted copies of **ALL** communications between the prosecution, including the prosecuting attorney's agents, and alleged victims offering benefits and accepting benefits (including, but not limited to, letters, emails, and informational pamphlets).
- 10) Unredacted copies of **ALL** documents provided to, and received from, alleged victims relating to crime victim benefits (including, but not limited to, Crime Victims Compensation Program applications provided to alleged victims **and** received by the Industrial Commission).
- 11) A written summary or report of any testimony that the State intends to introduce pursuant to rules 702, 703, or 705 of the Idaho Rules of Evidence at trial or hearing; including the witness' opinions, the facts and data for those opinions, and the witnesses qualifications.
- 12) All reports or memoranda made by police officers or investigators in connection with the investigation or prosecution of the case, including, what are commonly referred to as "ticket notes."
- 13) Any writing or object that may be used to refresh the memory of all persons who may be called as witnesses, pursuant to IRE 612.
- 14) Any and all audio and/or video recordings made by law enforcement officials during the course of their investigation.
- 15) Any evidence, documents or witnesses that the State discovers or could discover with due diligence after complying with this request.

The undersigned further requests written compliance within 14 days of service of the within instrument pursuant to ICR 16.

DATED March 07, 2017.

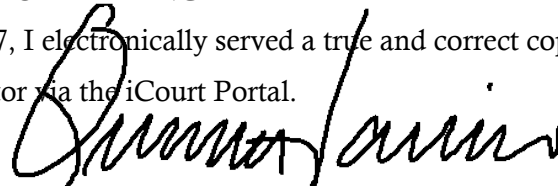
ANTHONY R. GEDDES
Chief Public Defender



For Eric R. Rolfsen
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on March 07, 2017, I electronically served a true and correct copy of the within instrument to the Ada County Prosecutor via the iCourt Portal.



Quincy Harris

Description	Greenwood Pataro 03.07.17 F Casey		
Date	3/7/2017	Location	1A-CRT504
Time	Speaker	Note	
01:59:22 PM		CR01.16.42586State v. Salvador Adame	
01:59:25 PM		CR01.16.36926State v. Jerry Belue	
01:59:27 PM		CR01.17.1513 State v. Sergio Barboza	
01:59:34 PM		CR01.17.4152 State v. Douglas Tueller	
01:59:41 PM		CR01.16.35232State v. Mohmad Habeb	
02:00:00 PM		CR01.17.1513 State v. Sergio Barboza	
02:00:02 PM		CR01.17.4152 State v. Douglas Tueller	
02:00:10 PM		CR01.16.35232State v. Mohmad Habeb - not present.	
02:00:30 PM		CR01.17.4490State v. John Reid	
02:00:31 PM	Arraignment rights.		
02:05:39 PM	End.		
02:05:39 PM			
02:05:39 PM			
04:50:40 PM		CR01.16.35232State v. Mohmad Habeb	
04:50:42 PM	Court	Calls case deft present on bond with counsel Eric Rolfsen. State's atty Brian Naugle.	
04:50:56 PM	Court	Addresses the deft regardng his tardiness today.	
04:51:39 PM	Defendant	Statement regarding why he was late.	
04:51:54 PM	Court	Addresses the deft.	
04:52:09 PM	Court	Arraignment - 03.14.17 at 2:00 pm - be on time.	
04:52:21 PM	End.		
04:52:21 PM			
04:52:21 PM			

Description	Greenwood Pataro 03.14.17 F Casey		
Date	3/14/2017	Location	1A-CRT504
Time	Speaker	Note	
01:59:59 PM	Arraignments	CR01.16.31118State v. Eden Mazariegos - not present.	
02:00:55 PM		CR01.16.42588State v. Keesha Brown	
02:00:57 PM		CR01.17.2352 State v. Michael Torrey	
02:01:05 PM		CR01.16.35232State v. Mohmad Habeb	
02:01:07 PM		CR01.16.28434State v. Rocky Clifford	
02:01:10 PM		CR01.17.4886 State v. Jessica Poindexter Beaty	
02:01:18 PM		CR01.17.5674 State v. Keri Smith	
02:01:26 PM	Court	Arraignment rights.	
02:02:37 PM	Court	Eden Mazariegos now present.	
02:03:21 PM	Court	Addresses him regarding his tardiness.	
02:03:46 PM	End.		
02:03:46 PM			
02:03:46 PM			
02:05:17 PM	Arraignments	Recalls now that all defts are present.	
02:05:21 PM	Court	Arraignment rights.	
02:12:02 PM	End.		
02:12:02 PM			
02:12:02 PM			
02:43:44 PM		CR01.16.35232State v. Mohmad Habeb	
02:43:46 PM	Court	Calls case deft present on bond with counsel Eric Rolfsen. State's atty Michael Guy.	
02:44:10 PM	Defendant	True name spelled correctly. Waives formal reading.	
02:44:29 PM	Court	Advises the deft of the charges and the possible penalties.	
02:45:58 PM	Defendant	Understands the possible penalties and his rights.	
02:46:11 PM	Public Defender	Requests 2 weeks.	
02:46:21 PM	Court	EOP - 03.28.17 at 2:00 pm.	
02:46:36 PM	Court	No further continuances.	

02:46:42 PM	Court	Advises the deft to stay in contact with his atty.
02:46:51 PM	End.	
02:46:51 PM		
02:46:51 PM		

Produced by FTR Gold™
www.fortherecord.com

Description	Greenwood K Pataro 03.28.17 F Casey		
Date	3/28/2017	Location	1A-CRT503
Time	Speaker	Note	
04:29:52 PM		CR01.16.35232State v. Mohmad Habeb	
04:29:54 PM	Court	Calls case deft present on bond with counsel Eric Rolfsen. State's atty Michael Guy.	
04:29:56 PM	Public Defender	Not guilty plea.	
04:30:15 PM	State Attorney	3 days.	
04:30:22 PM	Court	JT - 08.14.17 at 9:00 am and PT 07.25.17 at 1:30 pm.	
04:32:22 PM	Court	Advises the deft to stay in contact with his atty.	
04:32:34 PM	End.		
04:32:35 PM			

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www.fortherecord.com

JAN M. BENNETTS
Ada County Prosecuting Attorney

Michael J. Guy
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Phone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-35232
)	
vs.	)	MOTION TO DISQUALIFY
)	
MOHAMAD B. A. HABEB,)	
)	
Defendant.)	
_____)	

COMES NOW, Michael J. Guy, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and moves the Court pursuant to I.C.R. 25(a), to disqualify, without cause, the Honorable Judge D. Duff McKee from presiding over the above-entitled case.

RESPECTFULLY SUBMITTED this 30 day of March 2017

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Michael J. Guy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of March 2017, I caused to be served, a true and correct copy of the foregoing Motion to Disqualify upon the individual(s) named below in the manner noted:

**Eric R. Rolfsen, Ada County Public Defender's Office, 200 W. Front Street, Rm 1107,
Boise, ID 83702**

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: «Fax_Number».
- ☐ By hand delivering copies of the same to defense counsel.
- ☒ Via iCourt eFile and Serve



Legal Assistant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

MOHMAD BAKIR ALI HABEB,

Defendant.

Case No. CR01.16.35232

SCHEDULING ORDER

This matter came before the court on Tuesday, March 28, 2017 for entry of plea and with the defendant pleading not guilty the Court set this matter for Tuesday, July 25, 2017 at 01:30 PM for a Pretrial Conference and Monday, August 14, 2017 at 9:00 AM for a Jury Trial of the above named Defendant, MOHMAD BAKIR ALI HABEB. The attorneys present were:

For the State: Michael Guy

For the Defendant: Eric Rolfsen

The Defendant entered a plea of not guilty and requested a jury trial. The court instructed the clerk to enter the plea of not guilty into the court minutes.

Pursuant to I.C.R. 12 and I.C.R. 18 the court hereby orders that the attorneys and Defendant shall comply with the following scheduling order:

- 1) **JURY TRIAL DATE:** The 3 day jury trial of this action shall commence before this court on **August 14, 2017, 2017** at 9:00 a.m.
- 2) Notice is hereby given, pursuant to I.C.R. 25(a)(6) that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

Hon. G. D. Carey
Hon. Cheri C. Copsey
Hon. Dennis Goff
Hon. Renae Hoff
Hon. Daniel C. Hurlbutt, Jr.
Hon. James Judd
Hon. D. Duff McKee
Hon. James Morfitt

Hon. Thomas Neville
Justice Gerald Schroeder
Hon. Kathryn Sticklen
Hon. Linda Trout (mediations only, limited)
Hon. Darla Williamson
Hon. Ronald Wilper
Hon. William Woodland
All Sitting Fourth District Judges

Unless a party has previously exercised their right to disqualification without cause under Rule 25(a)(1), each party shall have the right to file one (1) motion for disqualification without cause as to any alternate judge not later than fourteen (14) days after service of this written notice listing the alternate judge.

- 3) **PRE-TRIAL CONFERENCE:** Counsel for the parties and the Defendant shall appear before this court on July 25, 2017 at 1:30 p.m. for the pre-trial conference. Counsel shall be prepared to discuss settlement possibilities pursuant to I.C.R. 18. Failure of the Defendant to appear at this pre-trial conference will result in a forfeiture of bail and a bench warrant shall be issued by the court.

Each party shall be required to serve on all other parties and file with the Court a complete list of exhibits and witnesses in accordance with I.R.C.P. 16(h). Exhibit and witness lists shall also be submitted to the Court via email at kpataro@adaweb.net.

- 4) **JURY INSTRUCTIONS:** The parties shall submit all proposed jury instructions to the court on or before the pre-trial conference. Requested instructions shall also be submitted to the Court via email at laberasturi@adaweb.net. It is sufficient for the parties to identify unmodified pattern instructions by number.
- 5) **SANCTIONS:** Failure to comply with this order will subject a party or its attorney to appropriate sanctions, including but not limited to, costs, and reasonable attorney fees and jury costs. A party may be excused from strict compliance with any provisions of this Order only upon showing good cause.
- 6) **CONTINUANCES:** The court will not grant continuances unless good cause exists and all the parties waive their right to speedy trial.

DATED _____ Signed: 3/30/2017 01:30 PM



RICHARD D. GREENWOOD
District Judge

CERTIFICATE OF MAILING

I hereby certify that on this 3 day of April, 2017, I mailed
(served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTING ATTORNEY
EMAILED

ADA COUNTY PUBLIC DEFENDER
EMAILED

CHRISTOPHER D. RICH
Clerk of the District Court


By 
Deputy Court Clerk



EXHIBIT LIST

Before the date set for the pretrial conference, the parties shall contact the clerk for assignment of exhibit numbers.

Richard D. Greenwood, DISTRICT JUDGE
Kathy Pataro, DEPUTY CLERK
Fran Casey, COURT REPORTER

CASE NO: **CR01.16.35232**

DATE(S): _____

STATE OF IDAHO

vs.

MOHMAD BAKIR ALI HABEB

NO	DESCRIPTION	DATE	ID	OFFD	OBJ	ADMIT
1						
2						
3						

Exhibit 1

JAN M. BENNETTS
Ada County Prosecuting Attorney

Michael J. Guy
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-35232
)	
vs.	)	ORDER TO DISQUALIFY
)	
MOHAMAD B. A. HABEB,)	
)	
Defendant.)	
_____)	

The above-entitled matter having come before this Court based on the State's Motion to Disqualify;

IT IS HEREBY ORDERED that the Honorable Judge D. Duff McKee be disqualified from the above-entitled case pursuant to Idaho Criminal Rule 25(a), without cause.

DATED Signed: 4/4/2017 01:17 PM



District Judge

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2017, I served the foregoing document upon the following attorneys, persons and agencies at the addresses listed below.

Eric Robert Rolfsen
Ada County Public Defender's Office
200 W. Front Street, Rm 1107
Boise, ID 83702

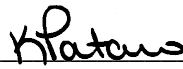
☐ U.S. Mail, postage prepaid
☐ Facsimile
☒ Email
public.defender@adacounty.id.gov

Michael J. Guy
Ada County Prosecutor's Office
200 W. Front St. Rm 3191
Boise, ID 83702

☐ U.S. Mail, postage prepaid
☐ Facsimile
☒ Email
acpocourtdocs@adaweb.net

CHRISTOPHER D. RICH
Ada County Clerk of the Court

Signed: 5/1/2017 02:08 PM



Deputy Clerk



JAN M. BENNETTS
Ada County Prosecuting Attorney

Michael J. Guy
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
acpocourtdocs@adaweb.net

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-35232
)	
vs.	)	DISCOVERY RESPONSE
	)	TO COURT
MOHAMAD HABEB,)	
)	
Defendant.)	
_____)	

COMES NOW, Michael J. Guy, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and informs the Court that the State has complied with and lodged objections to the Defendant's Request for Discovery.

RESPECTFULLY SUBMITTED this the 5 ^{July} day of June 2017.

JAN M. BENNETTS
Ada County Prosecuting Attorney



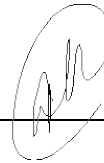
By: Michael J. Guy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this the 5th ^{July} day of ~~June~~, 2017 I caused to be served, a true and correct copy of the foregoing Discovery Response to Court upon the individual(s) named below in the manner noted:

**Eric Robert Rolfsen, Ada County Public Defender's Office, 200 W. Front Street, Rm 1107,
Boise, ID 83702**

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____.
- ☐ By hand delivering copies of the same to defense counsel.
- ☒ By iCourt eFile and Serve.



JAN M. BENNETTS
Ada County Prosecuting Attorney

Michael J. Guy
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Phone: (208) 287-7700
Fax: (208) 287-7707
acpocourtdocs@adaweb.net

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-01-16-35232
vs.)	
	)	STATE'S MOTION IN LIMINE
MOHAMAD B.A. HABEB,)	
)	
Defendant.)	
)	
_____)	

COMES NOW, Michael J. Guy, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, pursuant to I.R.E. 401, 402, 403, and 404, moves this Court for a pre-trial order prohibiting the presentation of evidence, arguments or other statements or questions made in the presence of the jury referring to an alleged sexual incident occurring between the victim, Mazin Al Rubaye and Z.A., the Defendant's fiancée. The State also seeks an order prohibiting any questions to the jury panel during voir dire and any witness during the presentation of evidence during trial and/or arguments designed to do the same. The State believes that such conduct from the Defense would constitute misconduct and could be grounds for a mistrial.

Throughout the pretrial negotiations of this case the Defense, by and through Counsel of Record, has made it clear that the Defendant believed that he was justified in his actions towards the

victim due to the earlier sexual incident between Mazin and Z.A. The incident is alleged to have happened one (1) year prior to the alleged criminal conduct in the case before this Court. The grounds for this motion are that such evidence is improper and irrelevant to the charged crimes and does not relate in any way to any element of the charged offenses or to any viable defense. In short, it does not have “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” I.R.E. 401. Furthermore, this evidence has no marginal relevance, and even if it somehow did, its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues and misleading the jury, and by consideration a waste of time. I.R.E. 403.

RESPECTFULLY SUBMITTED this 19 day of July 2017.

JAN M. BENNETTS
Ada County Prosecuting Attorney

A handwritten signature in black ink, appearing to read 'Michael J. Guy', written over a horizontal line.

Michael J. Guy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of July 2017, I caused to be served, a true and correct copy of the foregoing Motion in Limine upon the individual(s) named below in the manner noted:

Name and address: Eric R. Rolfsen, Ada County Public Defender's Office

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By Hand Delivering said document to defense counsel.
- ☐ By emailing a copy of said document to defense counsel.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____
- ☒ By iCourt eFile and Serve



Legal Assistant

JAN M. BENNETTS
Ada County Prosecuting Attorney

Michael J. Guy
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700
Fax: (208) 287-7709
acpocourtdocs@adaweb.net

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-35232
)	
vs.)	
	)	ADDENDUM TO DISCOVERY
MOHAMAD HABEB,	)	RESPONSE TO COURT
)	
Defendant.)	
_____)	

COMES NOW, Michael J. Guy, Deputy Prosecuting Attorney, in and for Ada County, State of Idaho, and informs the Court that the State has submitted an Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this the 19 day of July 2017.

JAN M. BENNETTS
Ada County Prosecuting Attorney




By: Michael J. Guy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of July 2017, a true and correct copy of the foregoing Addendum to Discovery Response to Court was served to the following in the manner noted below:

Eric Robert Rolfsen, Ada County Public Defender's Office, 200 W. Front Street, Rm 1107, Boise,
ID 83702

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____.
- ☐ By hand.
- ✓ By iCourt eFile & Serve.



Legal Assistant

JAN M. BENNETTS
Ada County Prosecuting Attorney

Michael J. Guy
Deputy Prosecuting Attorney
200 West Front Street
Boise, Idaho 83702-5954
Telephone: (208) 287-7700
acpocourtdocs@adaweb.net

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-35232
)	
vs.	)	NOTICE OF PRESENTATION
	)	OF SELF-AUTHENTICATING
MOHAMAD B.A. HABEB,	)	RECORDS
)	
Defendant.)	
_____)	

COMES NOW, Michael J. Guy, Deputy Prosecuting Attorney, in and for Ada County, State of Idaho, and notifies the Court and counsel it will present certified copies of a Preliminary Estimate of damages by Lithia Body and Paint as exhibits at the trial pursuant to I.R.E. 803(6) and 902(11).

DATED this 19 day of July 2017.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Michael J. Guy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

19th

I HEREBY CERTIFY that on this _____ day of July 2017, I caused to be served, a true and correct copy of the foregoing Notice of Presentation of Self-Authenticating Records upon the individual(s) named below in the manner noted:

Name and address: Eric R. Rolfsen, Ada County Public Defender's Office

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By Hand Delivering said document to defense counsel.
- ☐ By emailing a copy of said document to defense counsel.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____
- ☒ By iCourt eFile and Serve



Legal Assistant

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

ERIC R. ROLFSEN, ISB #3731
Deputy Public Defender
200 West Front Street, Suite 1107
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

MOHAMAD HABEB,

Defendant.

Case No. CR01-16-35232

MOTION FOR EXPEDITED
PRELIMINARY
HEARING TRANSCRIPT

COMES NOW, Mohamad Habeb, the defendant above-named, by and through counsel Eric R. Rolfsen of the Ada County Public Defender's office, and moves this Court pursuant to ICR 5.2(a) for an ORDER providing typewritten transcripts of the preliminary hearing proceedings held in this matter within seven (7) days, as they are essential and necessary for filing pretrial motions. Defendant, being indigent, also requests that the transcripts be prepared at the cost of Ada County, at a rate of \$4.25 per page.

DATED July 24, 2017.

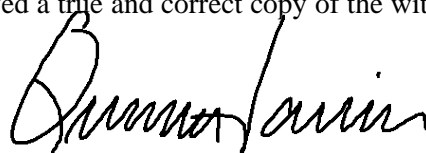
ANTHONY R. GEDDES
Chief Public Defender



For Eric R. Rolfsen
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on July 24, 2017, I served a true and correct copy of the within instrument to the Trial Court Administrator via the iCourt Portal.



Quincy Harris

JAN M. BENNETTS
Ada County Prosecuting Attorney

Michael Guy
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-35232
)	
vs.	)	STATE'S EXHIBIT LIST
)	
MOHAMAD B.A. HABEB,)	
)	
Defendant.)	
_____)	

COMES NOW, THE STATE OF IDAHO, by and through the undersigned Deputy
Prosecuting Attorney, and submits its following exhibit list:

1. Audio of Officer Brad Vickhammer (5 Tracks)
2. Photograph depicting damage to Blue Hyundai
3. Photograph depicting damage to Blue Hyundai
4. Photograph depicting damage to Blue Hyundai
5. Photograph depicting damage to Blue Hyundai
6. Photograph depicting damage to Blue Hyundai

7. Photograph depicting damage to Blue Hyundai
8. Photograph of text messages

DATED this 24 day of July 2017.

JAN M. BENNETTS
Ada County Prosecuting Attorney



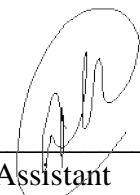
Michael Guy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of July 2017, I caused to be served, a true and correct copy of the foregoing State's Exhibit List upon the individual(s) named below in the manner noted:

Eric Rolfsen, Ada County Public Defender, 200 W. Front Street, Room 1107, Boise, ID 83702.

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number:
- ☒ Court efile and serve



Legal Assistant

JAN M. BENNETTS
Ada County Prosecuting Attorney

Michael Guy
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
MOHAMAD B.A. HABEB,)
)
Defendant,)
)
)
)
_____)

Case No. CR01-16-35232

**STATE'S LIST OF POTENTIAL
TRIAL WITNESSES**

COMES NOW, Michael Guy, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and does hereby provide the following list of potential trial witnesses:

1. Mazin Al Rubaye
2. Hazim Al Rubaye
3. Chris Young
4. Carly Bock
5. Andrea Brooks
6. Matt Canfield
7. Nathan Davis
8. Felecia Dusenbery

9. Ryan Jones
10. Andria Matheus
11. Traci McWilliams
12. Jena Pratt
13. Kayse Stone
14. Brad Vickhammer
15. Telmate Deputy (Will disclose upon assignment)

DATED this 24 day of July 2017

JAN M. BENNETTS
Ada County Prosecuting Attorney



Michael Guy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of July 2017, a true and correct copy of the foregoing State's List of Potential Trial Witnesses was served to: **Eric R. Rolfsen, Ada County Public Defender, 200 W. Front Street, Room 1107, Boise, ID 83702**, in the manner noted below:

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number:
- ☒ Court efile and serve



Legal Assistant

FILED By: K. Patens Deputy Clerk
Fourth Judicial District, Ada County
CHRISTOPHER D. RICH, Clerk

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

ERIC R. ROLFSEN, ISB #3731
Deputy Public Defender
200 West Front Street, Suite 1107
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

MOHAMAD HABEB,

Defendant.

Case No. CR01-16-35232

ORDER FOR EXPEDITED PRELIMINARY
HEARING TRANSCRIPT

For good cause appearing, this Court hereby grants Defendant's Motion for Preliminary Hearing Transcript. Pursuant to ICR 5.2(a), a typewritten transcript of the preliminary hearing held in this matter, shall be prepared at the expense of Ada County.

The transcript shall be prepared within seven (7) days from the entry date of this order, at a rate of \$4.25 per page.

ORDERED: _____ Signed: 7/25/2017 01:36 PM

Richard D. Greenwood
District Judge

CERTIFICATE OF SERVICE
July 25, 2017

I HEREBY CERTIFY that on _____,
I served a true and correct electronic copy to:

Ada County Prosecutor	acpocourtdocs@adaweb.net
Ada County Public Defender	public.defender@adacounty.id.gov
Ada County Transcript	transcripts@adaweb.net

CHRISTOPHER D. RICH

Ada County Clerk of the Court

Signed: 7/25/2017 01:46 PM

K. Patens
Deputy Clerk



ORDER FOR PRELIMINARY HEARING TRANSCRIPT

000064

Description	Greenwood Pataro 07.25.17 F Casey		
Date	7/25/2017	Location	1A-CRT504
Time	Speaker	Note	
01:32:45 PM		CR01.16.35232State v. Mohmad Habeb	
01:32:47 PM	Court	Calls case deft present on bond with counsel Eric Rolfsen. State's atty Michael Guy.	
01:33:06 PM	Public Defender	Will be going forward to trial. Doesn't have the preliminary hearing transcript. Submitted an order for an expedited transcript.	
01:35:01 PM	State Attorney	Requeests that this be continued for a minute.	
01:35:18 PM	End.		
01:35:18 PM			
02:02:08 PM		CR01.16.35232State v. Mohmad Habeb	
02:02:11 PM	Court	Recalls.	
02:02:15 PM	Public Defender	Will be asking for a continuance and will waive his right to a speedy trial.	
02:03:09 PM	State Attorney	Flying in the interpreters for the trial. They don't want the uncertainty of flying in an interpreter.	
02:04:14 PM	Court	Discussion between the Court and the reporter regarding the transcript.	
02:04:54 PM	Court	Will be going forward to trial - will not continue the trial. The transcript should be done by trial.	
02:05:16 PM	State Attorney	Motions pending -	
02:06:48 PM	Public Defender	Statement - has the right to exam the expert regarding damages.	
02:07:29 PM	Court	Discussion between the Court and trial regarding the pending motions.	
02:08:03 PM	Court	Discusson between the Court and counsel regarding any issues for trial. Advises the deft to stay in contact with his atty.	
02:08:15 PM	End.		
02:08:15 PM			
02:08:15 PM			

JUL 26 2017

CHRISTOPHER D. RICH, Clerk
By P. BOURNE
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,)	
)	
vs.	)	Case No. CR01-16-35232
)	
MOHAMAD HABEB,	)	NOTICE OF PREPARATION
	)	OF PRELIMINARY HEARING
Defendant,	)	TRANSCRIPT
_____)	

An Order for transcript was filed in the above-entitled matter on July 25, 2017, and a copy of said Order was received by the Transcription Department on July 26, 2017. I certify the estimated cost of preparation of the transcript to be:

Type of Hearing: Preliminary Hearing
Date of Hearing: February 16, 2017 Judge: Daniel L. Steckel
36 Pages x \$4.25 = \$153.00

In this case, the Ada County Public Defender's Office has agreed to pay for the cost of the transcript fee upon completion of the transcript.

The Transcription Department will prepare the transcript and file it with the Clerk of the District Court within thirty (30) days (or expedited days) from the date of this notice. The transcriber may make application to the District Judge for an extension of time in which to prepare the transcript.

Date: July 26, 2017



Pamela Bourne
Transcript Department

PB

CERTIFICATE OF MAILING

I certify that on July 26, 2017, a true and correct copy of the Notice of Preparation of Transcript was forwarded to Defendant's attorney of record, by first class mail, at:

Ada Co. Public Defender
200 W. Front St. Ste. 1107
Boise ID 83702
ERIC R. ROLFSEN



Pamela Bourne
Transcript Department

JAN M. BENNETTS
Ada County Prosecuting Attorney

Michael J. Guy
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208) 287-7709
acpocourtdocs@adaweb.net

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-35232
)	
vs.)	
)	
MOHAMAD HABEB,	)	NOTICE OF HEARING
)	
Defendant.)	
_____)	

TO: Eric Robert Rolfsen, Attorney of Record, you will please take notice that on 2nd day of August 2017, at the hour of 1:30 of said day, or as soon thereafter as counsel can be heard, Deputy Prosecuting Attorney Michael J. Guy, will move this Honorable Court regarding the State's Motion in Limine and Notice of Self-Authenticating Records in the above-entitled action.

DATED this 26 day of July 2017.

JAN M. BENNETTS
Ada County Prosecuting Attorney




By: Michael J. Guy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 27th day of July 2017 I caused to be served, a true and correct copy of the foregoing Notice of Hearing upon the individual(s) named below in the manner noted:

**Eric R. Rolfsen, Ada County Public Defender's Office, 200 W. Front Street, Rm 1107,
Boise, ID 83702**

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____.
- ☐ By hand delivering copies of the same to defense counsel.
- ☒ By iCourt eFile and Serve.



Legal Assistant

Description	Greenwood Pataro 08.02.17 F Casey		
Date	8/2/2017	Location	1A-CRT503
Time	Speaker	Note	
<u>01:21:25 PM</u>		CR01.16.35232 State v. Mohmad Habeb	
<u>01:29:40 PM</u>	Court	Calls case deft present on bond with counsel Eric Rolfsen. State's atty	
<u>01:29:55 PM</u>	Court	Motion in limine.	
<u>01:29:59 PM</u>	State Attorney	Argument on motion - was not a direct quote from Mr. Rolfsen. The deft can not talk about the alleged incident or counsel not talk about it.	
<u>01:34:00 PM</u>	Public Defender	Argument on motion -	
<u>01:36:43 PM</u>	State Attorney	Argument on motion - will never ask to exclude evidence and then admit it at trial. May offer a redacted audio. Will not play the audio.	
<u>01:52:55 PM</u>	Public Defender	Further argument on motion.	
<u>01:56:00 PM</u>	Court	Direct counsel and enter the order in extent that any allegation or statement to a witness, during voir dire or opening that the deft's fiance was raped will not be allowed, however, if during the course of the trial if it becomes relevant than bring it out of the presence of the jury and decide at that point. If Mr. Rolfsen wants to bring it up needs to be outside of the jury.	
<u>01:58:03 PM</u>	State Attorney	Response - wants to clarify the judge's ruling.	
<u>01:59:44 PM</u>	Court	Response - will let the comments of the Court stand. Does not need a written order.	
<u>02:00:21 PM</u>	State Attorney	Statement - certificate of record - defense counsel objected.	
<u>02:03:41 PM</u>	Public Defender	Response to the comments of the State.	
<u>02:05:43 PM</u>	State Attorney	Response regarding the evidence and not needing a expert witness.	
<u>02:10:11 PM</u>	Court	Response - will admit as a business record but not establishing the damage to the car. The State will have to produce a witness. Returns the exhibit to the State.	

02:12:57 PM	Public Defender	Statement - other incidents on the record.
02:13:20 PM	Court	Will take that up in trial.
02:13:44 PM	End.	
02:13:45 PM		
02:13:45 PM		

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www.fortherecord.com

JAN M. BENNETTS
Ada County Prosecuting Attorney

Michael Guy
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-35232
)	
vs.	)	STATE'S AMENDED EXHIBIT
	)	LIST
MOHAMAD B.A. HABEB,)	
)	
Defendant.)	
_____)	

COMES NOW, THE STATE OF IDAHO, by and through the undersigned Deputy Prosecuting Attorney, and submits its following amended exhibit list:

1. Audio of Officer Brad Vickhammer (5 Tracks)
2. Photograph depicting damage to Blue Hyundai
3. Photograph depicting damage to Blue Hyundai
4. Photograph depicting damage to Blue Hyundai
5. Photograph depicting damage to Blue Hyundai
6. Photograph depicting damage to Blue Hyundai
7. Photograph depicting damage to Blue Hyundai

8. Photograph of text messages
9. Certified Preliminary Estimate

DATED this 8 day of August 2017.

JAN M. BENNETTS
Ada County Prosecuting Attorney



Michael Guy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of August 2017, I caused to be served, a true and correct copy of the foregoing State's Amended Exhibit List upon the individual(s) named below in the manner noted:

Eric Rolfsen, Ada County Public Defender, 200 W. Front Street, Room 1107, Boise, ID 83702.

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number:
- ☒ Court efile and serve



Legal Assistant

Description	Greenwood Pataro 08.14.17 F Casey		
Date	8/14/2017	Location	1A-CRT504
Time	Speaker	Note	
08:40:01 AM		CR01.16.35232 State v. Mohmad Habeb	
08:48:29 AM	Court	Calls case deft present on bond wth counsel Eric Rolfsen. State's atty Michael Guy.	
08:56:07 AM	Public Defender	Motion to exclude witnesses.	
08:56:15 AM	State Attorney	No objection.	
08:56:16 AM	Court	Excludes witnesses minus the victim. Admonishes	
08:56:58 AM	Court	Counsel do not have any objections to the preproof instructions. Admonishes counsel regarding the witnesses.	
08:57:29 AM	Recess.		
08:57:34 AM	Court	Back on the record.	
09:07:28 AM	Court	Jury panel present in the courtroom.	
09:09:32 AM	State Attorney	Ready to proceed.	
09:09:42 AM	Public Defender	Ready to proceed.	
09:09:46 AM	Court	Opening jury instructions.	
09:21:48 AM	Court	Jury panel sworn.	
09:43:31 AM	Court	Side bar.	
09:44:08 AM	Court	Jurors excused for cause - 10, 22, 43, 50, 9, 26, and 38.	
09:46:03 AM	State Attorney	Voir dire examination.	
10:09:11 AM	State Attorney	Passes the jury for cause.	
10:20:43 AM	Court	Morning break.	
10:20:49 AM	Court	Admonishes the jury panel and they are excused for the recess.	
10:23:11 AM	Court	Voir dire of juror #25.	
10:23:57 AM	Public Defender	Questions the juror.	

10:24:27 AM	State Attorney	Response.
10:25:53 AM	Court	Will not excuse the juror for cause.
10:26:20 AM	Recess.	
10:26:28 AM	Court	Back on the record.
10:40:55 AM	Public Defender	Vor dire examination continued.
11:21:50 AM	Public Defender	Pass jury for cause.
11:21:55 AM	Court	Addresses the jury panel regarding the peremptory challenges.
11:40:20 AM	Court	Addresses the jury.
11:40:29 AM	Court	Clerk calls the jurors to the panel.
11:42:27 AM	Court	Counsel stipulate.
11:42:48 AM	Court	Clerk swears in the jury panel.
11:43:12 AM	Court	Addresses the remaining jury panel and they are excused.
11:44:58 AM	Court	Addresses the parties.
11:45:13 AM	Court	Jury instructions.
12:00:43 PM	State Attorney	Opening statements.
12:06:09 PM	Public Defender	Opening statements.
12:08:35 PM	Court	Addresses the jury panel.
12:08:40 PM	Court	Admonishes the jury panel and they are excused for the afternoon break.
12:10:38 PM	Recess.	
12:10:44 PM	Court	Back on the record.
12:32:33 PM	Court	Jury panel present in their proper places.
12:32:57 PM	Court	Counsel stipulate.
12:33:01 PM	State Attorney	Calls Felecia Dusenbery.
12:33:23 PM	Court	Witness sworn and testifies.
12:34:03 PM	State Attorney	Direct examination.
12:37:14 PM	State	Identifies the deft.

	Attorney	
12:37:23 PM	State Attorney	Direct examination continued.
12:39:16 PM	Public Defender	Cross examination.
12:44:51 PM	State Attorney	Re-direct examination.
12:47:26 PM	Court	Witness steps down and is excused.
12:47:41 PM	State Attorney	Calls Officer Carly Bock.
12:48:10 PM	Court	Witness sworn and testifies.
12:48:51 PM	State Attorney	Direct examination.
12:56:17 PM	State Attorney	Exhibit 1 - 5 provided to counsel and handed to the witness.
12:57:43 PM	State Attorney	Moves to admit Exhibit 1 - 5.
12:57:49 PM	Public Defender	No objection.
12:57:54 PM	State Attorney	Publishes Exhibits 1 - 5.
01:01:55 PM	Public Defender	Cross examination.
01:04:23 PM	Court	Witness steps down and is excused.
01:04:41 PM	State Attorney	Side bar.
01:05:36 PM	Court	Addresses the jury panel.
01:05:55 PM	Court	Admonishes the jury panel and they are excused for the evening.
01:08:10 PM	Court	Addresses the parties regarding the post proof instructions.
01:09:05 PM	End.	
01:09:06 PM		
01:09:06 PM		

Description	Greenwood K Pataro/T Villereal PM 08.16.17 F Casey		
Date	8/16/2017	Location	1A-CRT504
Time	Speaker	Note	
08:37:24 AM		CR01.16.35232 State v. Mohmad Habeb	
08:40:21 AM	Court	Calls case deft present on bond with counsel Eric Rolfsen. State's atty Michael Guy.	
09:02:43 AM	State Attorney	Statement - Information - would like to strike language on Count III.	
09:03:30 AM	Court	Interpreter sworn - Khaldoun Almously.	
09:04:11 AM	Court	Jury present and in their proper places.	
09:04:32 AM	Court	Counsel stipulate.	
09:04:39 AM	State Attorney	Calls Mazim Al Rubaye.	
09:04:53 AM	Court	Witness sworn and testifies.	
09:05:46 AM	Court	Addresses the witness regarding te witness.	
09:06:54 AM	State Attorney	Direct exaxamination.	
09:25:59 AM	State Attorney	Identifies the witness.	
09:28:33 AM	Public Defender	Objection -	
09:28:48 AM	Court	Will disregard to the answer.	
09:29:05 AM	State Attorney	Direct examination continued.	
09:31:22 AM	Public Defender	Objection -	
09:31:27 AM	Court	Jury will disregard the answer.	
09:31:32 AM	State Attorney	Requests	
09:31:50 AM	Public Defender	Conjecture - can say that he was scared but not what was going to happening.	
09:32:15 AM	Court	Reverse his ruling the answer will stand.	
09:33:13 AM	State Attorney	Direct examinaton continued.	

<u>09:44:36 AM</u>	Public Defender	Objection - leading.
<u>09:44:40 AM</u>	Court	Sustained.
<u>09:44:48 AM</u>	State Attorney	Direct examination continued.
<u>09:45:08 AM</u>	Public Defender	Objection -
<u>09:45:13 AM</u>	Court	Overruled.
<u>09:45:19 AM</u>	State Attorney	Direct examination continued.
<u>09:48:30 AM</u>	State Attorney	Exhibit 6 marked provided to counsel and handed to the witness.
<u>09:48:55 AM</u>	State Attorney	Sidebar.
<u>09:50:53 AM</u>	Public Defender	Cross examination.
<u>09:54:13 AM</u>	Public Defender	Requests that the answer be stricken.
<u>09:54:25 AM</u>	Court	The jury will disregard the answer.
<u>09:54:43 AM</u>	Public Defender	Cross examination continued.
<u>09:56:04 AM</u>	State Attorney	Objection - speculation and asks the answer be stricken.
<u>09:56:15 AM</u>	Court	Overruled.
<u>09:56:20 AM</u>	Public Defender	Cross examination continued.
<u>10:04:27 AM</u>	Public Defender	Objection - non-responsive.
<u>10:04:37 AM</u>	Court	Sustained.
<u>10:04:48 AM</u>	Public Defender	Cross examination.
<u>10:05:39 AM</u>	State Attorney	Re-direct examination.
<u>10:06:46 AM</u>	Public Defender	Objection - foundation.
<u>10:06:52 AM</u>	Court	Overruled.

10:06:56 AM	State Attorney	Direct examination.
10:10:34 AM	Public Defender	Re-cross examination.
10:11:07 AM	State Attorney	Objection - relevance.
10:11:25 AM	Court	Overruled.
10:11:34 AM	Public Defender	Re-cross examination continued.
10:13:04 AM	State Attorney	Nothing further.
10:13:19 AM	Court	Witness steps down and is excused.
10:13:50 AM	State Attorney	Sidebar.
10:14:02 AM	Court	Excuses the witness.
10:15:18 AM	Court	Addresses the jury and they are admonished and excused to the jury room.
10:16:32 AM	Court	Addresses the parties.
10:16:45 AM	Recess.	
10:35:28 AM	Court	Back on the record.
10:35:32 AM	Court	Jury panel present in their proper places.
10:35:54 AM	Court	Counsel stipulate.
10:35:58 AM	State Attorney	Calls Officer Brad Vickhammer.
10:36:27 AM	Court	Witness sworn and testifies.
10:36:49 AM	State Attorney	Direct examination.
10:39:37 AM	State Attorney	Identifies the deft.
10:44:37 AM	Public Defender	Cross examination.
10:45:24 AM	State Attorney	Nothing further.
10:45:31 AM	Court	Witness steps down and is excused.
10:45:41 AM	State	Traci McWilliams

	Attorney	
10:45:53 AM	Court	Witness sworn and testifies.
10:46:51 AM	State Attorney	Direct examination.
10:49:45 AM	Public Defender	Cross examination.
10:50:03 AM	Court	Witness steps down and is excused.
10:50:20 AM	State Attorney	Calls Chris Young.
10:50:38 AM	Court	Witness sworn and testifies.
10:57:00 AM	State Attorney	Moves to admit State's Exhibit 6.
10:57:11 AM	Public Defender	No objection.
10:57:14 AM	Court	Without objection - State's Exhibit 6 will be admitted.
10:57:33 AM	State Attorney	Publishes the exhibit.
11:02:50 AM	Public Defender	No questions.
11:03:14 AM	Court	Witness steps down and is excused.
11:03:30 AM	State Attorney	Would like to take a motion up outside the presence of the jury.
11:03:47 AM	Court	Admonishes the jury panel and they are excused to the jury room.
11:04:44 AM	State Attorney	Motion to strike the language in the Information on Count III.
11:06:28 AM	Public Defender	Leave in the Court's discretion.
11:10:15 AM	Court	Discussion between the Court and counsel.
11:10:23 AM	Public Defender	No objection.
11:10:26 AM	Court	Will not strike the language of the Information.
11:13:06 AM	Court	Jury panel present in their proper places.
11:13:17 AM	State Attorney	State rests.
11:13:25 AM	Court	Addresses the jury panel.

11:14:13 AM	Court	Admonishes the jury panel.
11:14:57 AM	Public Defender	No other witnesses other than possible testimony of the deft.
11:15:17 AM	Public Defender	Rule 29 motion for the 3 counts.
11:15:50 AM	State Attorney	Response.
11:17:36 AM	Public Defender	Further argument.
11:17:55 AM	Court	Will leave this for the jury.
11:21:43 AM	Court	Discussion between the Court and counsel.
11:23:08 AM	Recess.	
11:42:03 AM	Court	Back on the record.
11:42:07 AM	Court	Jury panel present in their proper places.
11:42:15 AM	Court	Counsel stipulate.
11:42:29 AM	Public Defender	Calls Mohmad Habeb.
11:42:53 AM	Court	Deft sworn and testifies.
11:43:00 AM	Public Defender	Direct examination.
11:43:45 AM	State Attorney	Objection relevance.
11:43:48 AM	Court	Overruled.
11:43:52 AM	Public Defender	Direct examination.
11:44:44 AM	State Attorney	Objection.
11:44:55 AM	Court	Overruled.
11:44:59 AM	Public Defender	Direct examination.
11:52:17 AM	State Attorney	Cross examination.
11:59:01 AM	Public Defender	Objection.
11:59:14 AM	Court	Addresses the parties.

<u>11:59:21 AM</u>	State Attorney	Cross examination continued.
<u>12:03:57 PM</u>	Public Defender	Objection - relevance.
<u>12:04:02 PM</u>	State Attorney	SIdebar.
<u>12:05:53 PM</u>	State Attorney	Cross examination continued.
<u>12:06:06 PM</u>	Public Defender	Nothing further.
<u>12:06:19 PM</u>	State Attorney	Requests a few minutes.
<u>12:06:43 PM</u>	State Attorney	No rebuttal.
<u>12:07:55 PM</u>	Court	Addresses the jury panel - admonishes to the jury room for the afternoon break.
<u>12:10:31 PM</u>	Recess.	
<u>12:10:52 PM</u>		Back on the record.
<u>12:33:48 PM</u>	Court	Discussion between the Court and counsel regarding the jury instructions.
<u>12:34:49 PM</u>	Recess.	
<u>12:34:54 PM</u>	Court	Back on the record.
<u>12:42:31 PM</u>	Court	Discussion between the Court and counsel regarding the jury instructions.
<u>12:49:06 PM</u>	Recess.	
<u>12:59:14 PM</u>	Court	Back on the record
<u>01:02:45 PM</u>	Court	Jury panel present in their proper places.
<u>01:03:07 PM</u>	Court	Counsel stipulate.
<u>01:03:33 PM</u>	Court	Closing jury instructions.
<u>01:18:31 PM</u>	State Attorney	Closing arguments.
<u>01:35:36 PM</u>	Public Defender	Closing arguments.
<u>01:45:59 PM</u>	State Attorney	Rebuttel arguments.

01:52:10 PM	Court	Addresses the deft.
01:52:57 PM	Court	Clerk swears the marshall.
01:53:53 PM	Recess.	
01:53:57 PM	.	
03:25:21 PM		CR01.16.35232 State v. Mohamad Habeb
03:26:11 PM	Court	Back on the record
03:26:16 PM	Court	the jury has a question
03:26:32 PM	Court	reads the jury question to counsel
03:28:04 PM		counsel doesn't believe a definition is needed
03:29:29 PM	Court	Reads suggested answer: I can't give a better definition. You should take the words in their common meaning.
03:30:12 PM		counsel agree with that answer
03:31:47 PM		counsel approach the bench to review the jury question and the Court's answer
03:32:20 PM	Recess.	
05:01:13 PM	Court	Back on the record
05:01:33 PM	Court	the jury will come back tomorrow morning at 8:30 am to continue deliberations
05:05:11 PM	Court	Recess for the night

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www.fortherecord.com

Description	Greenwood K Pataro 08.17.17 F Casey		
Date	8/17/2017	Location	1A-CRT504
Time	Speaker	Note	
09:46:39 AM		CR01.16.35232 State v. Mohamad Habeb	
09:46:51 AM	Court	Calls case deft present on bond with counsel Eric Rolfsen. State's atty Michael Guy.	
09:47:15 AM	Court	Advises the parties regarding the jury question.	
09:47:22 AM	State Attorney	Response regarding the jury question.	
09:48:07 AM	Public Defender	Response regarding the jury question.	
09:48:41 AM	Court	Addresses the parties. Definitely - deadly weapon.	
09:49:39 AM	Public Defender	Tell the jury to look at the instructions.	
09:49:50 AM	Court	Addresses the parties	
09:50:11 AM	Public Defender	Would object any further clarification.	
09:51:10 AM	Court	Discussion between the Court and counsel regarding the jury question.	
09:59:01 AM	Court	Will take a quick recess for the parties to ponder an answer.	
09:59:20 AM	Recess.		
09:59:24 AM	Court	Back on the record.	
10:17:04 AM	State Attorney	Response.	
10:22:11 AM	Court	Discussion between the Court and counsel.	
10:22:23 AM	Court	The definition was given and they need to take into context of the jury question.	
10:25:29 AM	Court	Discussion between the Court and counsel.	
10:26:37 AM	Court	Addresses the parties.	
10:26:45 AM	Court	States on the record what the answer is.	
10:27:41 AM	Court	Notes the objections of counsel.	
10:30:34 AM	Recess.		
11:13:51 AM	Court	Back on the record.	

11:13:56 AM	Court	Advises counsel that they have reached a verdict.
11:14:05 AM	Court	Jury panel present.
11:14:21 AM	Court	Counsel stipulate.
11:14:41 AM	Court	Reviews the verdicts.
11:15:08 AM	Court	Clerk reads the verdict into the record.
11:16:47 AM	Court	True verdict.
11:17:01 AM	State Attorney	Waves polling of the jury.
11:17:02 AM	Public Defender	Requests the polling of the jury.
11:17:03 AM	Court	Clerk polls the jury.
11:18:21 AM	Court	Closing jury instructions.
11:20:31 AM	Court	Addresses the parties.
11:20:50 AM	Court	Orders PSI and evaluations.
11:20:57 AM	Court	Sentencing - 10.10.17 at 9:00 am.
11:21:27 AM	Court	Addresses the deft regarding the investigator and evaluator.
11:22:35 AM	End.	
11:22:35 AM		

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A.M. 11:05 FILED P.M. _____

AUG 17 2017

CHRISTOPHER D. RICH, Clerk
By KATHY PATARO
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ORIGINAL

Case No. CR-01-16-35232

JURY INSTRUCTIONS
HON. RICHARD D. GREENWOOD
District Judge
Presiding

THE STATE OF IDAHO,

Plaintiff,

vs.

MOHAMAD BAKIR ALI HABEB,

Defendant.

INSTRUCTION NO. 1

Now that you have been sworn as jurors to try this case, I want to go over with you what will be happening. I will describe how the trial will be conducted and what we will be doing. At the end of the trial, I will give you more detailed guidance on how you are to reach your decision.

Because the state has the burden of proof, it goes first. After the state's opening statement, the defense may make an opening statement, or may wait until the state has presented its case.

The state will offer evidence that it says will support the charges against the defendant. The defense may then present evidence, but is not required to do so. If the defense does present evidence, the state may then present rebuttal evidence. This is evidence offered to answer the defense's evidence.

After you have heard all the evidence, I will give you additional instructions on the law. After you have heard the instructions, the state and the defense will each be given time for closing arguments. In their closing arguments, they will summarize the evidence to help you understand how it relates to the law. Just as the opening statements are not evidence, neither are the closing arguments. After the closing arguments, you will leave the courtroom together to make your decision. During your deliberations, you will have with you my instructions, the exhibits admitted into evidence and any notes taken by you in court.

INSTRUCTION NO. 2

This criminal case has been brought by the state of Idaho. I will sometimes refer to the state as the prosecution. The State is represented by the deputy prosecuting attorney, Michael Guy. The defendant, Mohamad Habeb, is represented by his attorney, Eric Rolfsen.

The defendant is charged by the state of Idaho with violations of law. The charges against the defendant are contained in the Information. The Information is simply a description of the charges; it is not evidence.

I will read the Information, and state the defendant's plea.

[READ INFORMATION]

To these charges the defendant has pled NOT GUILTY.

INSTRUCTION NO. 3

Under our law and system of justice, the defendant is presumed to be innocent. The presumption of innocence means two things.

First, the State has the burden of proving the defendant guilty. The state has that burden throughout the trial. The defendant is never required to prove his innocence, nor does the defendant ever have to produce any evidence at all.

Second, the State must prove the alleged crime beyond a reasonable doubt. A reasonable doubt is not a mere possible or imaginary doubt. It is a doubt based on reason and common sense. It may arise from a careful and impartial consideration of all the evidence, or from lack of evidence. If after considering all the evidence you have a reasonable doubt about the defendant's guilt, you must find the defendant not guilty.

INSTRUCTION NO. 4

Your duties are to determine the facts, to apply the law set forth in my instructions to those facts, and in this way to decide the case. In doing so, you must follow my instructions regardless of your own opinion of what the law is or should be, or what either side may state the law to be. You must consider them as a whole, not picking out one and disregarding others. The order in which the instructions are given has no significance as to their relative importance. The law requires that your decision be made solely upon the evidence before you. Neither sympathy nor prejudice should influence you in your deliberations. Faithful performance by you of these duties is vital to the administration of justice.

In determining the facts, you may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits offered and received, and any stipulated or admitted facts. The production of evidence in court is governed by rules of law. At times during the trial, an objection may be made to a question asked of a witness, or to a witness' answer, or to an exhibit. This simply means that I am being asked to decide a particular rule of law. Arguments on the admissibility of evidence are designed to aid the Court and are not to be considered by you nor affect your deliberations. If I sustain an objection to a question or to an exhibit, the witness may not answer the question or the exhibit may not be considered. Do not attempt to guess what the answer might have been or what the exhibit might have shown. Similarly, if I tell you not to consider a particular statement or exhibit you should put it out of your mind, and not refer to it or rely on it in your later deliberations.

During the trial I may have to talk with the parties about the rules of law which should apply in this case. Sometimes we will talk here at the bench. At other times I will excuse you from the courtroom so that you can be comfortable while we work out any problems. You are not to speculate about any such discussions. They are necessary from time to time and help the trial run more smoothly.

Some of you have probably heard the terms “circumstantial evidence,” “direct evidence” and “hearsay evidence.” Do not be concerned with these terms. You are to consider all the evidence admitted in this trial.

However, the law does not require you to believe all the evidence. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it.

There is no magical formula by which one may evaluate testimony. You bring with you to this courtroom all of the experience and background of your lives. In your everyday affairs you determine for yourselves whom you believe, what you believe, and how much weight you attach to what you are told. The same considerations that you use in your everyday dealings in making these decisions are the considerations which you should apply in your deliberations.

In deciding what you believe, do not make your decision simply because more witnesses may have testified one way than the other. Your role is to think about the testimony of each witness you heard and decide how much you believe of what the witness had to say.

A witness who has special knowledge in a particular matter may give an opinion on that matter. In determining the weight to be given such opinion, you should consider the qualifications and credibility of the witness and the reasons given for the opinion. You are not bound by such opinion. Give it the weight, if any, to which you deem it entitled.

INSTRUCTION NO. 5

If during the trial I may say or do anything which suggests to you that I am inclined to favor the claims or position of any party, you will not permit yourself to be influenced by any such suggestion. I will not express nor intend to express, nor will I intend to intimate, any opinion as to which witnesses are or are not worthy of belief; what facts are or are not established; or what inferences should be drawn from the evidence. If any expression of mine seems to indicate an opinion relating to any of these matters, I instruct you to disregard it.

INSTRUCTION NO. 6

Do not concern yourself with the subject of penalty or punishment. That subject must not in any way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment.

INSTRUCTION NO. 7

If you wish, you may take notes to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. You should not let note-taking distract you so that you do not hear other answers by witnesses. When you leave at night, please leave your notes in the jury room.

If you do not take notes, you should rely on your own memory of what was said and not be overly influenced by the notes of other jurors. In addition, you cannot assign to one person the duty of taking notes for all of you.

You should be aware that, although the court reporter makes a record of the proceedings, a transcript is not provided to you during deliberations.

INSTRUCTION NO. 8

It is important that as jurors and officers of this court you obey the following instructions at any time you leave the jury box, whether it be for recesses of the court during the day or when you leave the courtroom to go home at night.

Do not discuss this case during the trial with anyone, including any of the attorneys, parties, witnesses, your friends, or members of your family. "No discussion" also means no emailing, text messaging, tweeting, blogging, posting to Facebook, or any other form of communication, electronic or otherwise.

Do not discuss this case with other jurors until you begin your deliberations at the end of the trial. Do not attempt to decide the case until you begin your deliberations.

I will give you some form of this instruction every time we take a break. I do that not to insult you or because I don't think you are paying attention, but because experience has shown this is one of the hardest instructions for jurors to follow. I know of no other situation in our culture where we ask strangers to sit together watching and listening to something, then go into a little room together and not talk about the one thing they have in common: what they just watched together.

There are at least two reasons for this rule. The first is to help you keep an open mind. When you talk about things, you start to make decisions about them and it is extremely important that you not make any decisions about this case until you have heard all the evidence and all the rules for making your decisions, and you won't have that until the very end of the trial. The second reason for the rule is that we want all of you working together on this decision when you deliberate. If you have conversations in groups of two or three during the trial, you won't remember to repeat all of your thoughts and observations for the rest of your fellow jurors when you deliberate at the end of the trial.

Ignore any attempted improper communication. If any person tries to talk to you about this case, tell that person that you cannot discuss the case because you are a juror. If that person persists, simply walk away and report the incident to the bailiff.

Do not make any independent personal investigations into any facts or locations connected with this case. **Do not** look up any information from any source, including the Internet. **Do not** communicate any private or special knowledge about any of the facts of this case to your fellow jurors. **Do not** read or listen to any news reports about this case or about anyone involved in this case, whether those reports are in newspapers or the Internet, or on radio or television.

In our daily lives we may be used to looking for information on-line and to “Google” something as a matter of routine. Also, in a trial it can be very tempting for jurors to do their own research to make sure they are making the correct decision. You must resist that temptation for our system of justice to work as it should. I specifically instruct that you must decide the case only on the evidence received here in court. If you communicate with anyone about the case or do outside research during the trial it could cause us to have to start the trial over with new jurors and you could be held in contempt of court.

While you are actually deliberating in the jury room, the bailiff will confiscate all cell phones and other means of electronic communications. Should you need to communicate with me or anyone else during the deliberations, please notify the bailiff.

INSTRUCTION NO. 9

You have now heard all the evidence in the case. My duty is to instruct you as to the law.

You must follow all the rules as I explain them to you. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from any I tell you, it is my instruction that you must follow.

INSTRUCTION NO. 10

As members of the jury it is your duty to decide what the facts are and to apply those facts to the law that I have given you. You are to decide the facts from all the evidence presented in the case.

The evidence you are to consider consists of:

1. sworn testimony of witnesses;
2. exhibits which have been admitted into evidence; and
3. any facts to which the parties have stipulated.

Certain things you have heard or seen are not evidence, including:

1. arguments and statements by lawyers. The lawyers are not witnesses. What they say in their opening statements, closing arguments and at other times is included to help you interpret the evidence, but is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, follow your memory;
2. testimony that has been excluded or stricken, or which you have been instructed to disregard;
3. anything you may have seen or heard when the court was not in session.

INSTRUCTION NO. 11

The original instructions and the exhibits will be with you in the jury room. They are part of the official court record. For this reason please do not alter them or write or mark on them in any way. You will be provided copies of the jury instructions for your use during deliberations which you may write on. If you have any questions about the handling or use of the exhibits, submit those questions in writing to me through the bailiff.

The instructions are numbered for convenience in referring to specific instructions. There may or may not be a gap in the numbering of the instructions. If there is, you should not concern yourselves about such gap.

INSTRUCTION NO. 12

In every crime or public offense there must exist a union or joint operation of act and intent.

INSTRUCTION NO. 13

Each count charges a separate and distinct offense. You must decide each count separately on the evidence and the law that applies to it, uninfluenced by your decision as to any other count. The defendant may be found guilty or not guilty on any or all of the offenses charged.

INSTRUCTION NO. 14

It is alleged that the crime charged was committed on or about a certain date. If you find the crime was committed, the proof need not show that it was committed on that precise date.

INSTRUCTION NO. 15

In order for the defendant to be guilty of Aggravated Assault, as charged in Count I of the Information, the State must prove each of the following:

1. On or about September 12, 2016;
2. in the state of Idaho;
3. the defendant, Mohamad Bakir Ali Habeb, committed an assault upon Mazin Al Rubaye;
4. by threatening to do violence upon the person of Mazin Al Rubaye with a baseball bat; and
5. the defendant committed that assault with a deadly weapon or instrument.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 16

An “assault” is committed when a person intentionally and unlawfully threatens by word or act to do violence to the person of another, with an apparent ability to do so, and does some act which creates a well-founded fear in the other person that such violence is imminent.

INSTRUCTION NO. 17

A “deadly weapon or instrument” is one likely to produce death or great bodily injury. It also includes any other object that is capable of being used in a deadly or dangerous manner if the person intends to use it as a weapon.

INSTRUCTION NO. 18

If your unanimous verdict is that the defendant is not guilty of Aggravated Assault, you must acquit him of that charge. In that event, you must next consider the included offense of Simple Assault.

INSTRUCTION NO. 19

In order for the defendant to be guilty of Assault, the State must prove each of the following:

1. On or about September 12, 2016;
2. in the state of Idaho;
3. the defendant, Mohamad Bakir Ali Habeb, committed an assault upon Mazin Al Rubaye;
4. by threatening to do violence upon the person of Mazin Al Rubaye with a baseball bat.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 20

In order for the defendant to be guilty of Malicious Injury to Property in Excess of \$1,000, as charged in Count II of the Information, the State must prove each of the following:

1. On or about September 12, 2016;
2. in the state of Idaho;
3. the defendant, Mohamad Bakir Ali Habeb, maliciously
4. injured a 2011 Hyundai Elantra
5. which was not the defendant's own; and
6. the damage to the property exceeded \$1,000 in value.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

The word "maliciously" means the desire to annoy or injure another or the intent to do a wrongful act.

As used in this instruction, "value" means the lesser of the following amounts:

- (a) The difference between the fair market value of the property before it was injured or destroyed and its fair market value afterward.
- (b) The reasonable cost of repairing the injury caused to the property.

The term "fair market value" means the price that a reasonably prudent purchaser would pay for the property under the market conditions prevailing at the time in question.

INSTRUCTION NO. 21

If your unanimous verdict is that the defendant is not guilty of Malicious Injury to Property in Excess of \$1,000, you must acquit him of that charge. In that event, you must next consider the included offense of Malicious Injury to Property.

INSTRUCTION NO. 22

In order for the defendant to be guilty of Malicious Injury to Property, the State must prove each of the following:

1. On or about September 12, 2016;
2. in the state of Idaho;
3. the defendant, Mohamad Bakir Ali Habeb, maliciously
4. injured a 2011 Hyundai Elantra
5. which was not the defendant's own.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 23

In order for the defendant to be guilty of Reckless Driving, as charged in Count III of the Information, the State must prove each of the following:

1. On or about September 12, 2016;
2. in the state of Idaho;
3. the defendant, Mohamad Bakir Ali Habeb, drove or was in actual physical control of a motor vehicle;
4. upon a highway, or upon public or private property open to the public, and
5. the defendant drove the vehicle carelessly or heedlessly or without due caution and circumspection, and at a speed or in a manner as to endanger or be likely to endanger any person or property.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 24

The phrase “actual physical control” means being in the driver’s position of the motor vehicle with the motor running or with the motor vehicle moving.

INSTRUCTION NO. 25

The term “highway” means the same as “street” and includes public roads, alleys, bridges, and adjacent sidewalks and rights-of-way.

INSTRUCTION NO. 26

It is for you, the jury, to determine from all the evidence in this case, applying the law as given in these instructions, whether defendant is guilty or not guilty of the offense[s] charged or of any included offense.

With respect to the facts alleged in Count I of the Information, the offense of Aggravated Assault includes the offense Simple Assault. It is possible for you to return on Count I any one, but only one of the following verdicts:

_____ GUILTY of Aggravated Assault.

_____ GUILTY of Simple Assault.

_____ NOT GUILTY of Count I.

With respect to the facts alleged in Count II of the Information, the offense of Malicious Injury to Property in Excess of \$1,000 includes the offense Malicious Injury to Property. It is possible for you to return on Count II any one, but only one of the following verdicts:

_____ GUILTY of Malicious Injury to Property in Excess of \$1,000.

_____ GUILTY of Malicious Injury to Property.

_____ NOT GUILTY of Count II.

When you are deliberating you should first consider the crime charged. You should consider the included offense only in the event the State has failed to convince you beyond a reasonable doubt of the defendant's guilt with respect to the crime charged.

INSTRUCTION NO. 27

You have been instructed as to all the rules of law that may be necessary for you to reach a verdict. Whether some of the instructions will apply depend upon your determination of the facts. You will disregard any instruction which applies to a state of facts which you determine does not exist. You must not conclude from the fact that an instruction has been given that the Court is expressing any opinion as to the facts.

INSTRUCTION NO. 28

I have outlined for you the rules of law applicable to this case and have told you of some of the matters which you may consider in weighing the evidence to determine the facts. In a few minutes counsel will present their closing remarks to you, and then you will retire to the jury room for your deliberations.

The arguments and statements of the attorneys are not evidence. If you remember the facts differently from the way the attorneys have stated them, you should base your decision on what you remember.

The attitude and conduct of jurors at the beginning of your deliberations are important. It is rarely productive at the outset for you to make an emphatic expression of your opinion on the case or to state how you intend to vote. When you do that at the beginning, your sense of pride may be aroused, and you may hesitate to change your position even if shown that it is wrong. Remember that you are not partisans or advocates, but are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions.

During your deliberations, you each have a right to re-examine your own views and change your opinion. You should only do so if you are convinced by fair and honest discussion that your original opinion was incorrect based upon the evidence the jury saw and heard during the trial and the law as given you in these instructions.

Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment. Each of

you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.

However, none of you should surrender your honest opinion as to the weight or effect of evidence or as to the innocence or guilt of the defendant because the majority of the jury feels otherwise or for the purpose of returning a unanimous verdict.

INSTRUCTION NO. 29

Upon retiring to the jury room, select one of you as a presiding officer, who will preside over your deliberations. It is that person's duty to see that discussion is orderly; that the issues submitted for your decision are fully and fairly discussed; and that every juror has a chance to express himself or herself upon each question.

In this case, your verdict must be unanimous. When you all arrive at a verdict, the presiding juror will sign it and you will return it into open court.

Your verdict in this case cannot be arrived at by chance, by lot, or by compromise.

If, after considering all of the instructions in their entirety, and after having fully discussed the evidence before you, the jury determines that it is necessary to communicate with me, you may send a note by the bailiff. You are not to reveal to me or anyone else how the jury stands until you have reached a verdict or unless you are instructed by me to do so.

Verdict forms suitable to any conclusion you may reach will be submitted to you with these instructions.

JUROR QUESTION TO JUDGE DURING DELIBERATION

DO NOT DESTROY - RETURN TO BAILIFF

DATE 8-16-17

CASE # CR-01-16-35232

TO JUDGE RICHARD D. GREENWOOD

FOREMAN NAME LYOYD D. CONDRON

QUESTION AND/OR REMARK:

ON INSTRUCTION NO. 15 POINT #4, WHAT
IS THE DEFINITION OF VIOLENCE UPON
THE PERSON.

THREATENING TO DO

I cannot give you a better definition.
You should take the words in their
common and ~~everyday~~ ordinary meaning.

8-16-17 3:31 pm

Lloyd Condron

FOREMAN SIGNATURE

JUROR QUESTION TO JUDGE DURING DELIBERATION

DO NOT DESTROY - RETURN TO BAILIFF

DATE 8-17-17

CASE # CR-01-16-35232

TO JUDGE RICHARD D. GREENWOOD

FOREMAN NAME LYOYD D. CONDRON

QUESTION AND/OR REMARK:

In the definition of "deadly weapon", does the
situation influence the application of the definition,
or is it just the weapon itself without
any context?

ie " Bat used on a person " vs
" Bat used on a person whose in the
protection of a car ".

You have been given all the instructions necessary for your
decision in this case. You should review the definition you have been given
along with all of the other instructions and evidence admitted
to reach your verdict.

Lloyd Condron
FOREMAN SIGNATURE

8-17-17
10:30 am

AUG 17 2017

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
CHRISTOPHER D. RICH, Clerk
By KATHY PATARO
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA DEPUTY

THE STATE OF IDAHO,

Plaintiff,

vs.

MOHMAD BAKIR ALI HABEB,

Defendant.

Case No. CR-01-16-35232

VERDICT - COUNT I

ORIGINAL

We, the Jury, duly empaneled and sworn to try the above entitled action, for our verdict, unanimously answer the question submitted to us as follows:

QUESTION NO. 1: Is the Defendant, MOHMAD BAKIR ALI HABEB, Guilty or Not Guilty of Aggravated Assault?

NOT GUILTY X GUILTY _____

If you find MOHMAD BAKIR ALI HABEB Guilty of Aggravated Assault, sign this verdict form as instructed and proceed to the verdict form for Count II. If you find MOHMAD BAKIR ALI HABEB Not Guilty of Aggravated Assault, please proceed to answer Question 2.

QUESTION NO. 2: Is MOHMAD BAKIR ALI HABEB guilty or not guilty of Assault?

NOT GUILTY _____ GUILTY X

Dated this 17 day of August, 2017.

Lloyd O. Condron
PRESIDING JUROR

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

FILED
1130 P.M.
AUG 17 2017
CHRISTOPHER D. RICH, Clerk
By KATHY PATARO
DEPUTY
ORIGINAL

THE STATE OF IDAHO,

Plaintiff,

vs.

MOHMAD BAKIR ALI HABEB,

Defendant.

Case No. CR-01-16-35232

VERDICT - COUNT II

We, the Jury, duly empaneled and sworn to try the above entitled action, for our verdict, unanimously answer the question submitted to us as follows:

QUESTION NO. 1: Is the Defendant, MOHMAD BAKIR ALI HABEB, Guilty or Not Guilty of Malicious Injury to Property in Excess of \$1,000?

NOT GUILTY _____

GUILTY X

If you find MOHMAD BAKIR ALI HABEB Guilty of Malicious Injury to Property in Excess of \$1,000, sign this verdict form as instructed and proceed to the verdict form for Count II. If you find MOHMAD BAKIR ALI HABEB Not Guilty of Malicious Injury to Property in Excess of \$1,000, please proceed to answer Question 2.

QUESTION NO. 2: Is MOHMAD BAKIR ALI HABEB guilty or not guilty of Malicious Injury to Property?

NOT GUILTY _____

GUILTY _____

Dated this 17 day of August, 2017.

Lloyd D. Lindstrom
PRESIDING JUROR

FILED
A.M. 11:30 P.M.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF IDAHO
AUG 17 2017

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADAMS
By KATHY PATARO
DEPUTY
CLERK

THE STATE OF IDAHO,

Plaintiff,

vs.

MOHMAD BAKIR ALI HABEB,

Defendant.

Case No. CR-01-16-35232

VERDICT - COUNT III

ORIGINAL

We, the Jury, duly empaneled and sworn to try the above entitled action, for our verdict,
unanimously answer the question submitted to us as follows:

QUESTION NO. 1: Is the Defendant, MOHMAD BAKIR ALI HABEB, Guilty or Not
Guilty of Reckless Driving?

NOT GUILTY _____

GUILTY X

Dated this 17 day of August, 2017.

Lloyd A. Condon
PRESIDING JUROR

Description	Greenwood Pataro 10.10.17 F Casey		
Date	10/10/2017	Location	1A-CRT504
Time	Speaker	Note	
<u>10:59:22 AM</u>		CR01.16.35232State v. Mohamad Habeb	
<u>10:59:28 AM</u>	Court	Calls case deft present on bond with counsel Eric Rolfsen. State's atty Michael Guy.	
<u>10:59:46 AM</u>	Court	Reviews the file.	
<u>11:00:52 AM</u>	Court	Parties have received and reviewed the materials. No corrections or additions.	
<u>11:01:19 AM</u>	State Attorney	After verdict was read - victim is not present and did not receive a statement.	
<u>11:01:41 AM</u>	Court	No testimony or statements.	
<u>11:01:51 AM</u>	State Attorney	Argument on recommendations. 2+3 on Count II. Probation. 180 days jail with credit for the time served. Count I and III - concurrent with Count II. Leave restitution for 30 - 60 days.	
<u>11:07:12 AM</u>	Public Defender	Argument on recommendations. Withheld judgment. Work release if jail time is ordered.	
<u>11:13:03 AM</u>	Court	No legal cause shown.	
<u>11:13:09 AM</u>	Court	Addresses the deft.	
<u>11:13:26 AM</u>	Defendant	Statement.	
<u>11:16:21 AM</u>	Court	Addresses the deft.	
<u>11:21:31 AM</u>	Court	JOC - Count II - withheld judgment for 3 yrs. DNA sample and thumbprint impression. No fine and standard cc. Enter into and comply with terms through IDOC. Restitution will be left open for 60 days. No discretionary jail time. Obtain diploma or GED. Count I - 30 days concurrent no fine and standard cc. Count III - 60 days concurrent no fine but standard cc. DL suspended for 30 DL commencing from today. Count II - 90 days jail with work release. Allows 14 days to report - no later than 10.23.17 at 5:00 pm.	

<u>11:27:26 AM</u>	Court	Discussion between the Court and counsel. Will bring up the NCO at the time of the restitution hearing.
<u>11:27:42 AM</u>	Court	Addresses the deft regarding the NCO that is still in place - no contact means no contact.
<u>11:29:05 AM</u>	Defendant	Accepts the terms of probation.
<u>11:29:29 AM</u>	Court	Restitution will be left open for 60 days.
<u>11:29:38 AM</u>	Court	Credit for 1 day served.
<u>11:29:48 AM</u>	Court	Appeal rights.
<u>11:30:10 AM</u>	Court	Addresses the deft.
<u>11:30:57 AM</u>	Court	Addresses the deft regarding the DNA sample and thumbprint impression.
<u>11:32:04 AM</u>	Court	Addresses the audience about the cell phone pictures
<u>11:32:05 AM</u>	End.	
<u>11:32:05 AM</u>		

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

MOHAMAD BAKIR ALI HABEB,

Defendant.

Case No. CR01-16-35232

ORDER WITHHOLDING
JUDGMENT AND ORDER OF
PROBATION AND COMMITMENT

On October 10, 2017, Michael Guy, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and the defendant, MOHAMAD BAKIR ALI HABEB, with his attorney, Eric Rolfsen, appeared before this Court for sentencing. The defendant was duly informed of the Information filed against him for the crimes of COUNT 1: AGGRAVATED ASSAULT, FELONY, I.C. §§ 18-901(b), -905(a); COUNT II: MALICIOUS INJURY TO PROPERTY, FELONY, I.C. § 18-7001(2); and COUNT III: RECKLESS DRIVING, MISDEMEANOR, I.C. 49-1401(1), (2), committed on September 12, 2016, and jury's verdict guilty to the lesser included offense of COUNT I: ASSAULT, MISDEMEANOR, I.C. § 18-902, COUNT II: MALICIOUS INJURY TO PROPERTY, FELONY, I.C. § 18-7001(2), and COUNT III: RECKLESS DRIVING, MISDEMEANOR, I.C. 49-1401(1), (2), on August 17, 2017.

The defendant, and defendant's counsel, were then asked if they had any legal cause or reason to offer why judgment and sentence should not be pronounced against the defendant, and if the defendant, or defendant's counsel, wished to offer any evidence or to make a statement on behalf of the defendant, or to present any information to the Court in mitigation of punishment; and the Court, having accepted such statements, and having found no legal cause or reason why judgment and sentence should not be pronounced against the defendant at this time, does render its Withheld Judgment as follows, to-wit:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the defendant is guilty of the crime of COUNT II: MALICIOUS INJURY TO PROPERTY, FELONY, I.C. § 18-7001(2), and that judgment be withheld for a period of three (3) years, from October 10, 2017, and that the defendant be placed on probation pursuant to I.C. § 19-2513(3), subject to the following conditions, to-wit:

A. That probation is granted to and accepted by the probationer, subject to all its terms and conditions and with the understanding that the Court may at any time, in case of the violation of the terms of the probation, cause the probationer to be returned to the Court for the imposition of sentence as prescribed by law or any other punishment as the Court may see fit to hand down.

B. That the probationer shall be under the legal custody and control of the Director of Probation and Parole of the State of Idaho and the District Court, with supervised probation and subject to the rules of probation as prescribed by the Board of Correction and the District Court.

C. During the period of probation the defendant shall not violate any law or ordinance of the United States or any city, state or county therein constituting a felony or misdemeanor.

D. Special conditions, to wit:

1. The Defendant shall enter into and comply with an agreement of supervision with the Board of Correction. Defendant was provided a copy of that agreement at sentencing. Failure to comply with the conditions of that agreement is a violation of defendant's probation. Defendant shall comply with that agreement effective from the date of sentencing.

2. Defendant shall pay the sums set out in this judgment for fines, fees, restitution, costs, etc., as soon as practicable, to the Ada County Clerk's Office in reasonable monthly installments as arranged through the probation officer.

3. Defendant is advised that time spent on probation is not credited against any underlying incarceration (jail time or prison) imposed. Defendant is at risk for imposition of the entire underlying sentence, with credit for any time served which was not imposed as a condition of probation, no matter how long defendant has been on probation, if he violates the terms of probation and the violation should be proved or admitted.

4. On Count II, Defendant shall serve 90 days in the Ada County Jail, with credit for 1 day already served, leaving a balance of 89 days to serve. The defendant shall report to serve jail time no later than October 23, 2017 at 5:00 p.m. Defendant shall have a work release option to serve jail time, subject to eligibility determined by the Sheriff.

5. The Court is specifically not providing for discretionary jail time. If Defendant violates terms of probation such that the probation officer would normally impose discretionary jail time, the Court directs that the violation be brought to the attention of the Court for disposition.

6. The defendant has received a withheld judgment. If the defendant successfully serves his sentence, then this charge will be dismissed. Any violation of probation will result in revocation of the withheld judgment and may result in imposition of the maximum allowable jail or prison time, or fines, or both for the original charge.

7. Defendant shall obtain his GED or HSE.

8. A no contact order has been issued in this case. A no contact order means NO CONTACT. No contact includes, but is not limited to, no contact directly, indirectly, no contact through third persons, no contact by mail, by phone, and no contact over the Internet or social media. A violation of the no contact order by the defendant, if proven or admitted, will violate a fundamental condition of probation.

9. The defendant shall submit a DNA sample and right thumbprint impression to authorities pursuant to I.C. § 19-5506.

E. That the probationer, if placed on probation to a destination outside the State of Idaho, or leaves the confines of the State of Idaho with or without permission of the director of probation and parole, does hereby waive extradition to the State of Idaho and also agrees that the probationer will not contest any effort by any state to return the probationer to the State of Idaho.

COUNT II: (Felony) Pursuant to I.C. § 31-3201A(b) the defendant shall pay court costs in the amount of \$17.50; County Administrative Surcharge Fee in the amount of \$10.00 pursuant to I.C. § 31-4502; Victim Notification Fee (VINE) in the amount of \$15.00 pursuant to I.C. § 31-3204; P.O.S.T. Academy fees in the amount of \$15.00 pursuant to I.C. § 31-3201B; ISTARs technology fee in the amount of \$10.00 pursuant to I.C. § 31-3201(5); \$75.00 reimbursement to the Victims Compensation Fund pursuant to I.C. § 72-1025; \$3.00 for the Peace Officer Temporary Disability Fund pursuant to I.C. § 72-1105; Emergency Surcharge Fee in the amount of \$100.00 pursuant to I.C. § 31-3201H, to be paid through the Clerk of the District Court.

COUNT I: (Misdemeanor): The Defendant shall serve thirty (30) days in the Ada County Jail, with credit for one (1) day served, to run concurrently with Count II and Count III. The Defendant shall also pay court costs in the amount of seventeen dollars fifty cents (\$17.50); Criminal Justice Fee of ten dollars (\$10.00); P.O.S.T. Fee of fifteen dollars (\$15.00); Victim Notification Fee (VINE), pursuant to I.C. §31-3204, in the amount of fifteen dollars (\$15.00); ISTARs Fee of ten dollars (\$10.00); Peace Officer Temporary Disability Fee of three dollars (\$3.00); Victim's Compensation Fund in the amount of thirty seven dollars (\$37.00); and Emergency Surcharge Fee of fifty dollars (\$50.00).

COUNT III: (Misdemeanor): The Defendant shall serve thirty (30) days in the Ada County Jail, with credit for one (1) day served, to run concurrently with Count I and Count II.

The Defendant shall also pay court costs in the amount of seventeen dollars fifty cents (\$17.50); Criminal Justice Fee of ten dollars (\$10.00); P.O.S.T. Fee of fifteen dollars (\$15.00); Victim Notification Fee (VINE), pursuant to I.C. §31-3204, in the amount of fifteen dollars (\$15.00); ISTARS Fee of ten dollars (\$10.00); Peace Officer Temporary Disability Fee of three dollars (\$3.00); Victim's Compensation Fund in the amount of thirty seven dollars (\$37.00); and Emergency Surcharge Fee of fifty dollars (\$50.00).

The parties were not prepared to stipulate to restitution. The state is directed to notice restitution for hearing if the parties cannot stipulate to an amount within sixty (60) days.

IT IS HEREBY ORDERED that the defendant's driver's license or permit is suspended for a period of thirty (30) days commencing on October 10, 2017, during which time defendant shall have absolutely no driving privileges of any kind.

Defendant is to pay supervision of probation and parole costs in an amount not to exceed the maximum allowable by I.C. § 20-225.

This probation shall expire at midnight on October 9, 2020, unless otherwise ordered by the Court.

IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Order Withholding Judgment and Order of Probation and Commitment to the Sheriff, which shall serve as the commitment of the defendant.


NOTICE OF RIGHT TO APPEAL

You, MOHAMAD BAKIR ALI HABEB, are hereby notified that you have the right to appeal this order to the Idaho Supreme Court. Any notice of appeal must be filed within forty-two (42) days from the entry of this judgment.

You are further notified that you have the right to be represented by an attorney in any appeal, and that if you cannot afford to retain an attorney, one may be appointed at public expense. Further, if you are a needy person, the costs of the appeal may be paid for by the State of Idaho. If you have questions about your appeal rights, you should consult your present attorney.

IT IS SO ORDERED.

Signed: 10/12/2017 11:18 AM



RICHARD D. GREENWOOD
District Judge

This is to certify that I have read or had read to me and fully understand and accept all the conditions, regulations and restrictions under which I am being granted probation. I will abide by and conform to them strictly, and fully understand that my failure to do so may result in the revocation of my probation.

Probationer

Date of Acceptance

Probation Officer

CERTIFICATE OF MAILING

I hereby certify that on the 12th day of October 2017, I mailed (emailed) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR'S OFFICE
VIA EMAIL

ADA COUNTY PUBLIC DEFENDER'S OFFICE
VIA EMAIL

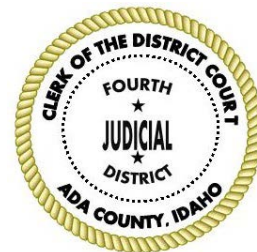
ADA COUNTY JAIL
VIA EMAIL

PROBATION AND PAROLE
VIA EMAIL

CENTRAL RECORDS
DEPARTMENT OF CORRECTION
ATTN: CCD PROBATION SENTENCING TEAM
VIA EMAIL

DRIVER SERVICES
IDAHO DEPARTMENT OF TRANSPORTATION
VIA EMAIL

CHRISTOPHER D. RICH
Clerk of the District Court



By: Shary Abbott
Deputy Court Clerk Signed: 10/12/2017 03:38 PM

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,
Plaintiff,

vs. Mohamad Habeb
Defendant.

CHRISTOPHER D. RICH, Clerk
By KATHY PATARO
DEPUTY

Case No.

CUSTODY ORDER

TO THE SHERIFF OF ADA COUNTY, STATE OF IDAHO:

☒ You are hereby ordered to **TAKE INTO YOUR CUSTODY** the said defendant and keep him/her in your custody for the following reason:

☒ Defendant has been sentenced to County incarceration (90 days in ACJ). Prior to the formal commitment, the Court authorizes these alternatives:

work release

____ Defendant has been sentenced to I.D.O.C. (____ yrs = ____ yrs. FIXED + ____ yrs INDET.) A formal commitment will follow. ____ Retained Jurisdiction.

____ Defendant's probation has been revoked.

____ Defendant's **Bond/ROR** has been revoked.

____ Bond set at \$ _____

____ NO BOND.

____ Bond increased to \$ _____

____ Bond reduced to \$ _____

____ Defendant to be kept in custody. Defendant's custody status to be determined by _____

____ **YOU ARE HEREBY ORDERED TO KEEP THE DEFENDANT IN THE CUSTODY OF THE ADA COUNTY JAIL UNTIL** _____

____ You are hereby ordered to **RELEASE** the said defendant from your custody for the following reason:

____ Defendant is released on his/her own recognizance.

____ The above case is dismissed against this defendant.

____ Defendant has been sentenced and has served all of his/her custody time.

Date: 10.10.17

RICHARD D. GREENWOOD
District Judge

Custody Order

000133

JAN M. BENNETTS
 Ada County Prosecuting Attorney

Michael J. Guy
 Deputy Prosecuting Attorney
 Idaho State Bar No. 9395
 200 West Front Street, Room 3191
 Boise, Idaho 83702
 Telephone: (208) 287-7700
 Fax: (208) 287-7709
acpocourtdocs@adaweb.net

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,)	
	)	Case No. CR01-16-35232
vs.)	
)	
MOHAMAD BAKIR ALI HABEB,	)	MOTION FOR ORDER FOR
	)	RESTITUTION AND JUDGMENT
Defendant.)	
_____)	

COMES NOW, Michael J. Guy, Deputy Ada County Prosecuting Attorney, in and for the County of Ada, State of Idaho, and moves this Court pursuant to Idaho Code §19-5304 for a restitution judgment in the amount of \$6,060.45 for losses incurred by the victim(s) and/or law enforcement agency(ies) as listed below, in the above referenced case, and move the Court for its Order for Restitution and Judgment, based upon the attached documentation.

MAZIN HAZIM A AL RUBAYE	\$6,060.45
-------------------------	------------

TOTAL:	\$6,060.45
---------------	-------------------

DATED December 4, 2017

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Michael J. Guy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 4th day of December, 2017, I caused to be served, a true and correct copy of the foregoing Motion for Order for Restitution and Judgment upon the individual(s) named below in the matter noted:

Name and address: Eric R. Rolfsen, Ada County Public Defender, 200 W. Front Street Rm 1107, Boise, ID, 83702.

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____.
- ☐ By hand-delivering copies of the same to defense counsel.
- ☒ Via iCourt eFile and Serve.


Chelsie Renk



JAN M. BENNETTS
ADA COUNTY PROSECUTING ATTORNEY

no dates

Loss Statement – Request for Restitution

Any questions, please contact the Ada County Prosecuting Attorney—Restitution Department at (208) 287-7700

State of Idaho vs. Hussein Al-Tememy Case Number JV01-17-764

Please Check ALL THAT APPLY:

- ☐ I am not requesting restitution.
- ☐ The defendant's insurance covered my losses.
- ☐ I hired a Civil Attorney regarding this incident. (Attorney's Name _____)
- ☐ My insurance company has covered the entire loss, except that I had to pay my insurance deductible which is \$ _____. (Please complete section 1 below.)
- ☒ I have losses that were not or only partially covered by insurance. The total amount of my out of pocket expenses (including any insurance deductible that I've paid) is \$ _____ as described below. (Please complete sections 1, 2, 3, and 4 below as appropriate.)
- ☐ I submitted an application to the Victims Compensation Program.
- ☐ I expect future additional costs. (Attach explanation / estimate of future costs.)

1. INSURANCE (AUTO/HOMEOWNER'S/MEDICAL) If you need more space, attach additional pages. (Defendant may be held financially responsible for the amount your insurance paid on your claim.)

-Insurance Company NA Claim/# NA
-Adjustor Name NA Phone# NA

2. PROPERTY DAMAGE/LOSS If the police did NOT recover your property, include documentation (in the form of receipts, invoices, estimates, and/or printout from manufacturer's website) reflecting the cost of repair or replacement of your property (If you need more space, attach additional pages).

Item Description Estimated Damage to Vehicle (copy attached) Cost: \$ 5,860.45
Item Description out of pocket damage to car (copy attached) Cost: \$ 200
Item Description _____ Cost: \$ _____

3. MEDICAL BILLS (include copies) If you need more space, attach additional pages.

-Hospital/Provider Name NA Treatment Date NA
-Physician(s) Name NA

4. LOST WAGES (as a direct result of this criminal act) If you need more space, attach additional pages.

Dates off work victim was fired for being involved in case Lost Wages \$ 2400
Provide written documentation from your Supervisor verifying the above loss.

TOTAL RESTITUTION REQUESTED

\$8460.45

To the best of my knowledge, all the information on this form and any additional pages are true and accurate and I recognize that I may have to testify in court under oath, concerning the information I have provided.

[Signature]
Signature

Mazin Hazim Al Rubaye
Print Name

04/14/17
Date

NA
Email Address

[Redacted]
Address/City/Zip

NA
Name of Business (if victim)

[Redacted]
Home/Cell Phone

NA
Work Phone 000136

plus
lost wages
for 3 months
of unemployment

1318 N MAPLE GROVE, BOISE, ID 83704

Phone: (208) 322-7059

FAX: (208) 322-7169

Preliminary Estimate

Customer: MAZIN, MAZIN

Job Number:

Written By: CHRIS YOUNG

Insured: MAZIN, MAZIN

Policy #:

Claim #:

Type of Loss:

Date of Loss:

Days to Repair: 15

Point of Impact:

Owner:

MAZIN, MAZIN

Inspection Location:

LITHIA BODY & PAINT OF BOISE

1318 N MAPLE GROVE

BOISE, ID 83704

Repair Facility

(208) 322-7059 Business

Insurance Company:

VEHICLE

2011 HYUN ELANTRA GLS 4D SED 4-1.8L-FI BLUE

VIN: KMHDH4AE6BU154960

Interior Color:

Mileage In:

Vehicle Out:

License:

Exterior Color: BLUE

Mileage Out:

State:

Production Date: 4/2011

Condition:

Job #:

TRANSMISSION

Overdrive

6 Speed Transmission

POWER

Power Steering

Power Brakes

Power Windows

Power Locks

Power Mirrors

Heated Mirrors

DECOR

Dual Mirrors

Tinted Glass

Console/Storage

CONVENIENCE

Intermittent Wipers

Tilt Wheel

Rear Defogger

Keyless Entry

Alarm

RADIO

AM Radio

FM Radio

Stereo

Search/Seek

CD Player

Auxiliary Audio Connection

Satellite Radio

SAFETY

Drivers Side Air Bag

Passenger Air Bag

Anti-Lock Brakes (4)

4 Wheel Disc Brakes

Front Side Impact Air Bags

Head/Curtain Air Bags

SEATS

Cloth Seats

Bucket Seats

WHEELS

Wheel Covers

PAINT

Clear Coat Paint

OTHER

Fog Lamps

Traction Control

Stability Control

Get live updates at www.carwise.com/e/Vi2Ci

Line	Oper	Description	Part Number	Qty	Extended Price \$	Labor	Paint
1		FRONT BUMPER					
2		O/H front bumper		0	0.00	1.9	0.0
3		R&I R&I bumper cover		0	0.00	Incl.	0.0
4	*	Rpr Bumper cover Korea built		0	0.00	<u>2.0</u>	2.8
5		Add for Clear Coat		0	0.00	0.0	1.1
6		Repl RT Side retainer	865143X000	1	11.44	0.1	0.0
7		Repl LT Side retainer	865133X000	1	11.44	0.1	0.0
8	#	R&I ALL 4 LOWER BODYKIT		0	0.00	4.0	0.0
9		R&I Lower grille Korea built w/o chrome		0	0.00	Incl.	0.0
10	*	R&I Lower deflector Korea built		0	0.00	<u>Incl.</u>	0.0
11		GRILLE					
12		R&I Grille assy GLS		0	0.00	0.2	0.0
13		FRONT LAMPS					
14		R&I RT Fog lamp assy Korea built		0	0.00	Incl.	0.0
15		Repl LT Fog lamp assy Korea built	922013X020	1	168.49	Incl.	0.0
16		Aim fog lamps		0	0.00	0.4	0.0
17		Repl RT Headlamp assy Korea built	921023X050	1	353.44	0.4	0.0
18		Aim headlamps		0	0.00	0.5	0.0
19		PILLARS, ROCKER & FLOOR					
20	*	Rpr LT Hinge pillar		0	0.00 s	<u>3.0</u>	1.6
21		Blnd RT Hinge pillar		0	0.00 s	0.0	0.8
22		ROOF					
23		R&I RT Roof molding		0	0.00	0.6	0.0
24		R&I LT Roof molding		0	0.00	0.6	0.0
25		FENDER					
26		R&I RT Pillar molding		0	0.00	0.1	0.0
27		R&I LT Pillar molding		0	0.00	0.1	0.0
28		FRONT DOOR					
29		R&I LT Door w'strip		0	0.00	0.5	0.0
30		Repl LT Black out tape upper	863623Y000	1	21.81	0.3	0.0
31		Repl LT Black out tape rear	863633Y000	1	11.26	0.2	0.0
32		R&I LT Belt molding		0	0.00	0.3	0.0
33		R&I LT R&I mirror		0	0.00	0.3	0.0
34		QUARTER PANEL					
35		Blnd LT Quarter pnl assy		0	0.00	0.0	1.1
36		Repl RT Quarter pnl assy	702003XA01	1	1,237.34	22.0	3.0
37		Add for Clear Coat		0	0.00	0.0	1.2
38		R&I RT Applique		0	0.00	0.2	0.0
39		R&I LT Applique		0	0.00	0.2	0.0
40		REAR LAMPS					
41		R&I LT Tail lamp assy Korean built		0	0.00	0.3	0.0
42		Repl RT Tail lamp assy Korean built	924023X050	1	163.15	Incl.	0.0

Customer: MAZIN, MAZIN

Job Number:

2011 HYUN ELANTRA GLS 4D SED 4-1.8L-FI BLUE

43	REAR BUMPER						
44		R&I	R&I bumper assy	0	0.00	Incl.	0.0
45	*	Rpr	Bumper cover	0	0.00	<u>1.0</u>	2.8
46			Add for Clear Coat	0	0.00	0.0	1.1
47		Repl	Applique	3X027ADU00	1	64.00	0.3
48	BACK GLASS						
49		R&I	Back glass Hyundai, Korea built w/o solar	0	0.00	Incl.	0.0
50	#	Repl	GLASS ADHESIVE	1	20.00	0.0	0.0
51	REAR DOOR						
52		Blnd	RT Outer panel	0	0.00	0.0	1.0
53		R&I	RT Belt molding	0	0.00	0.3	0.0
54		R&I	RT Handle, outside	0	0.00	0.4	0.0
55		R&I	RT R&I trim panel	0	0.00	0.5	0.0
56	#	Subl	DOOR EDGE GUARD	1	30.00	X	0.0
57	#		TINT COLOR	1	0.00	0.0	0.5
58	#		FLEX ADDITIVE X 2	1	20.00	T	0.0
59	#	Rpr	SETUP AND PRE-PULL	0	0.00	2.0	0.0
60	#		COVER CAR	1	10.00	T	0.0
61	#		EPA CHARGE	1	3.50	X	0.0
62	#		RESTORE CORROSION PROTECTION	1	15.00	T	0.0
63	#		STRUCTURAL ADHESIVE	1	25.00	0.0	0.0
SUBTOTALS					2,165.87	42.8	17.0

ESTIMATE TOTALS

Category	Basis	Rate	Cost \$
Parts			2,087.37
Body Labor	42.8 hrs @	\$ 50.00 /hr	2,140.00
Paint Labor	17.0 hrs @	\$ 50.00 /hr	850.00
Paint Supplies	17.0 hrs @	\$ 32.00 /hr	544.00
Miscellaneous			78.50
Subtotal			5,699.87
Sales Tax	\$ 2,676.37 @	6.0000 %	160.58
Grand Total			5,860.45
Deductible			0.00
CUSTOMER PAY			0.00
INSURANCE PAY			5,860.45

ESTIMATE IS VALID FOR 60 DAYS. PARTS ARE SUBJECT TO INVOICE. THIS IS A VISUAL INSPECTION ONLY AND ADDITIONAL PARTS AND LABOR MAY BE REQUIRED AFTER REPAIRS HAVE BEEN STARTED.

ANY PERSON WHO KNOWINGLY, AND WITH INTENT TO DEFRAUD OR DECEIVE ANY INSURANCE COMPANY, FILES A STATEMENT OF CLAIM CONTAINING ANY FALSE, INCOMPLETE, OR MISLEADING INFORMATION IS GUILTY OF A FELONY.

Estimate based on MOTOR CRASH ESTIMATING GUIDE and potentially other third party sources of data. Unless otherwise noted, (a) all items are derived from the Guide ARR1057, CCC Data Date 1/17/2017, and potentially other third party sources of data; and (b) the parts presented are OEM-parts manufactured by the vehicles Original Equipment Manufacturer. OEM parts are available at OE/Vehicle dealerships. OPT OEM (Optional OEM) or ALT OEM (Alternative OEM) parts are OEM parts that may be provided by or through alternate sources other than the OEM vehicle dealerships. OPT OEM or ALT OEM parts may reflect some specific, special, or unique pricing or discount. OPT OEM or ALT OEM parts may include "Blemished" parts provided by OEM's through OEM vehicle dealerships. Asterisk (*) or Double Asterisk (**) indicates that the parts and/or labor data provided by third party sources of data may have been modified or may have come from an alternate data source. Tilde sign (~) items indicate MOTOR Not-Included Labor operations. The symbol (<>) indicates the refinish operation WILL NOT be performed as a separate procedure from the other panels in the estimate. Non-Original Equipment Manufacturer aftermarket parts are described as Non OEM, A/M or NAGS. Used parts are described as LKQ, RCY, or USED. Reconditioned parts are described as Recond. Recored parts are described as Recore. NAGS Part Numbers and Benchmark Prices are provided by National Auto Glass Specifications. Labor operation times listed on the line with the NAGS information are MOTOR suggested labor operation times. NAGS labor operation times are not included. Pound sign (#) items indicate manual entries.

Some 2017 vehicles contain minor changes from the previous year. For those vehicles, prior to receiving updated data from the vehicle manufacturer, labor and parts data from the previous year may be used. The CCC ONE estimator has a list of applicable vehicles. Parts numbers and prices should be confirmed with the local dealership.

The following is a list of additional abbreviations or symbols that may be used to describe work to be done or parts to be repaired or replaced:

SYMBOLS FOLLOWING PART PRICE:

m=MOTOR Mechanical component. s=MOTOR Structural component. T=Miscellaneous Taxed charge category. X=Miscellaneous Non-Taxed charge category.

SYMBOLS FOLLOWING LABOR:

D=Diagnostic labor category. E=Electrical labor category. F=Frame labor category. G=Glass labor category. M=Mechanical labor category. S=Structural labor category. (numbers) 1 through 4=User Defined Labor Categories.

OTHER SYMBOLS AND ABBREVIATIONS:

Adj.=Adjacent. Algn.=Align. ALU=Aluminum. A/M=Aftermarket part. Blnd=Blend. BOR=Boron steel. CAPA=Certified Automotive Parts Association. D&R=Disconnect and Reconnect. HSS=High Strength Steel. HYD=Hydroformed Steel. Incl.=Included. LKQ=Like Kind and Quality. LT=Left. MAG=Magnesium. Non-Adj.=Non Adjacent. NSF=NSF International Certified Part. O/H=Overhaul. Qty=Quantity. Refn=Refinish. Repl=Replace. R&I=Remove and Install. R&R=Remove and Replace. Rpr=Repair. RT=Right. SAS=Sandwiched Steel. Sect=Section. Subl=Sublet. UHS=Ultra High Strength Steel. N=Note(s) associated with the estimate line.

2011 HYUN ELANTRA GLS 4D SED 4-1.8L-FI BLUE

CCC ONE Estimating - A product of CCC Information Services Inc.

The following is a list of abbreviations that may be used in CCC ONE Estimating that are not part of the MOTOR CRASH ESTIMATING GUIDE:

BAR=Bureau of Automotive Repair. EPA=Environmental Protection Agency. NHTSA= National Highway Transportation and Safety Administration. PDR=Paintless Dent Repair. VIN=Vehicle Identification Number.

VISTA AUTO REPAIR COMPLETE AUTO SERVICE

MATERIAL: ALL PARTS NEW UNLESS SPECIFIED: U-USED, R-REBUILT, RC-RECONDITIONED

QTY.	PART NO.	NAME OF PART	PRICE	WARRANTY Y/M
1		Fuel system service	19.99	
2		carb cleaner	6.00	
1		fuel 10 AMP.	2.31	
TOTAL PARTS			28.30	
MECHANICS RECOMMENDATIONS				
Estimated cost \$ Estimate Charge Basis for Charge				

PLEASE READ CAREFULLY CHECK ONE OF THE STATEMENTS BELOW AND SIGN:
I UNDERSTAND THAT, UNDER STATE LAW, I AM ENTITLED TO A WRITTEN ESTIMATE,
INCLUDING A COMPLETION DATE. IF MY FINAL BILL WILL EXCEED \$100. (\$50 in MD)

- I REQUEST A WRITTEN ESTIMATE. THE FINAL BILL MAY NOT EXCEED THIS ESTIMATE WITHOUT MY WRITTEN APPROVAL.
- I DO NOT REQUEST A WRITTEN ESTIMATE, AS LONG AS THE REPAIR COSTS DO NOT EXCEED \$100. THE SHOP MAY NOT EXCEED THIS AMOUNT WITHOUT MY WRITTEN OR ORAL APPROVAL.
- I DO NOT REQUEST A WRITTEN ESTIMATE.

*Checked lines apply (Preparer must check at least one):
This charge represents costs and profits to the motor vehicle repair facility for miscellaneous shop supplies or waste disposal.
This amount includes a charge of \$ _____, which is required under _____ law.

NAME Hazim Al Rubayy PHONE #02035
ADDRESS [REDACTED]
CITY STATE [REDACTED]
2ND AUTHORIZED [REDACTED] PHONE [REDACTED]

RECEIVED (DATE & TIME) 3-10-17 A.M. CUSTOMER'S ORDER NO. 3-10-17 A.M.
YEAR • MAKE • MODEL 2011 Hyundai Elantra ODOMETER 75144
SERIAL #/VIN 4 cyl. AT WRITTEN BY [REDACTED]

☐ LUBE ☐ OIL CHANGE ☐ FLUSH TRANS. ☐ FLUSH DIF. ☐ WASH ☐ POLISH
CHARGE FOR HAZARDOUS OR OTHER WASTE REMOVAL *
cyl cel is on, high idle, overheating -

Inspected found short in power box, fix it, replace blown fuse 10AMP, after performance fuel system service, clean int. manifold, throttle body, reset CEL, return throttle position. After that engine runs OK, no problems.

METHOD OF PAYMENT: ☐ CHECK ☐ CASH ☐ CHARGE
LABOR ☐ FLAT RATE ☐ HOURLY ☐ BOTH
☐ RETAIN PARTS ☐ DESTROY PARTS
AUTHORIZED BY [REDACTED]

GUARANTEED ITEMS: LABOR ONLY 170.00
PARTS 28.30
ACCESSORIES
GAS, OIL & GREASE
MISC. MERCHANDISE
SUBLET REPAIRS
STORAGE FEE
TAX 1.70
TOTAL 200.00

You are entitled by law to the return of all parts replaced (except those for which there is a core charge, unless you agree otherwise by initialed the following) I do not desire the return of any of the parts that are replaced during the authorized repairs.

Estimate good for 30 days. Not responsible for damage caused by theft, fire, or acts of nature. I authorize the above repairs, along with any necessary materials, I authorize you and your employees to operate my vehicle for the purpose of testing, inspection and delivery of my risk. An express mechanic's lien is hereby acknowledged on the above vehicle to secure the amount of the repairs hereon. If I cannot repair's prior to their completion for any reason, a tear-down and assessment fee of \$ _____ will be applied.


SIGNED [Signature] DATE 3-10-2017

Ada Signed Court Order
Habeb, Mohamad Bakir Ali
CR01-16-35232

You are further notified that you have the right to be represented by an attorney in any appeal, and that if you cannot afford to retain an attorney, one may be appointed at public expense. Further, if you are a needy person, the costs of the appeal may be paid for by the State of Idaho. If you have questions about your appeal rights, you should consult your present attorney.

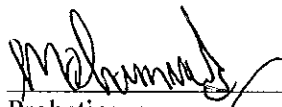
IT IS SO ORDERED.

Signed: 10/12/2017 11:18 AM



RICHARD D. GREENWOOD
District Judge

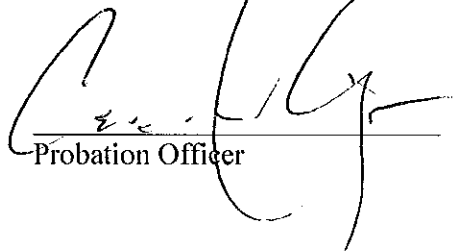
This is to certify that I have read or had read to me and fully understand and accept all the conditions, regulations and restrictions under which I am being granted probation. I will abide by and conform to them strictly, and fully understand that my failure to do so may result in the revocation of my probation.



Probationer

12/7/17

Date of Acceptance



Probation Officer

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

MOHAMAD BAKIR ALI HABEB,


Defendant.

Case No. CR01-16-35232

ORDER WITHHOLDING
JUDGMENT AND ORDER OF
PROBATION AND COMMITMENT

On October 10, 2017, Michael Guy, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and the defendant, MOHAMAD BAKIR ALI HABEB, with his attorney, Eric Rolfsen, appeared before this Court for sentencing. The defendant was duly informed of the information filed against him for the crimes of COUNT I: AGGRAVATED ASSAULT, FELONY, I.C. §§ 18-901(b), -905(a); COUNT II: MALICIOUS INJURY TO PROPERTY, FELONY, I.C. § 18-7001(2); and COUNT III: RECKLESS DRIVING, MISDEMEANOR, I.C. 49-1401(1), (2), committed on September 12, 2016, and jury's verdict guilty to the lesser included offense of COUNT I: ASSAULT, MISDEMEANOR, I.C. § 18-902, COUNT II: MALICIOUS INJURY TO PROPERTY, FELONY, I.C. § 18-7001(2), and COUNT III: RECKLESS DRIVING, MISDEMEANOR, I.C. 49-1401(1), (2), on August 17, 2017.

((

The defendant, and defendant's counsel, were then asked if they had any legal cause or reason to offer why judgment and sentence should not be pronounced against the defendant, and if the defendant, or defendant's counsel, wished to offer any evidence or to make a statement on behalf of the defendant, or to present any information to the Court in mitigation of punishment; and the Court, having accepted such statements, and having found no legal cause or reason why judgment and sentence should not be pronounced against the defendant at this time, does render its Withheld Judgment as follows, to-wit:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the defendant is guilty of the crime of COUNT II: MALICIOUS INJURY TO PROPERTY, FELONY, I.C. § 18-7001(2), and that judgment be withheld for a period of three (3) years, from October 10, 2017, and that the defendant be placed on probation pursuant to I.C. § 19-2513(3), subject to the following conditions, to-wit:

A. That probation is granted to and accepted by the probationer, subject to all its terms and conditions and with the understanding that the Court may at any time, in case of the violation of the terms of the probation, cause the probationer to be returned to the Court for the imposition of sentence as prescribed by law or any other punishment as the Court may see fit to hand down.

B. That the probationer shall be under the legal custody and control of the Director of Probation and Parole of the State of Idaho and the District Court, with supervised probation and subject to the rules of probation as prescribed by the Board of Correction and the District Court.

C. During the period of probation the defendant shall not violate any law or ordinance of the United States or any city, state or county therein constituting a felony or misdemeanor.

D. Special conditions, to wit:

1. The Defendant shall enter into and comply with an agreement of supervision with the Board of Correction. Defendant was provided a copy of that agreement at sentencing. Failure to comply with the conditions of that agreement is a violation of defendant's probation. Defendant shall comply with that agreement effective from the date of sentencing.

2. Defendant shall pay the sums set out in this judgment for fines, fees, restitution, costs, etc., as soon as practicable, to the Ada County Clerk's Office in reasonable monthly installments as arranged through the probation officer.

3. Defendant is advised that time spent on probation is not credited against any underlying incarceration (jail time or prison) imposed. Defendant is at risk for imposition of the entire underlying sentence, with credit for any time served which was not imposed as a condition of probation, no matter how long defendant has been on probation, if he violates the terms of probation and the violation should be proved or admitted.

4. On Count II, Defendant shall serve 90 days in the Ada County Jail, with credit for 1 day already served, leaving a balance of 89 days to serve. The defendant shall report to serve jail time no later than October 23, 2017 at 5:00 p.m. Defendant shall have a work release option to serve jail time, subject to eligibility determined by the Sheriff.

5. The Court is specifically not providing for discretionary jail time. If Defendant violates terms of probation such that the probation officer would normally impose discretionary jail time, the Court directs that the violation be brought to the attention of the Court for disposition.

6. The defendant has received a withheld judgment. If the defendant successfully serves his[^] sentence, then this charge will be dismissed. Any violation of probation will result in revocation of the withheld judgment and may result in imposition of the maximum allowable jail or prison time, or fines, or both for the original charge.

7. Defendant shall obtain his GED or HSE.

8. A no contact order has been issued in this case. A no contact order means NO CONTACT. No contact includes, but is not limited to, no contact directly, indirectly, no contact through third persons, no contact by mail, by phone, and no contact over the Internet or social media. A violation of the no contact order by the defendant, if proven or admitted, will violate a fundamental condition of probation.

9. The defendant shall submit a DNA sample and right thumbprint impression to authorities pursuant to I.C. § 19-5506.

E. That the probationer, if placed on probation to a destination outside the State of Idaho, or leaves the confines of the State of Idaho with or without permission of the director of probation and parole, does hereby waive extradition to the State of Idaho and also agrees that the probationer will not contest any effort by any state to return the probationer to the State of Idaho.

COUNT II: (Felony) Pursuant to I.C. § 31-3201A(b) the defendant shall pay court costs in the amount of \$17.50; County Administrative Surcharge Fee in the amount of \$10.00 pursuant to I.C. § 31-4502; Victim Notification Fee (VINE) in the amount of \$15.00 pursuant to I.C. § 31-3204; P.O.S.T. Academy fees in the amount of \$15.00 pursuant to I.C. § 31-3201B; ISTARs technology fee in the amount of \$10.00 pursuant to I.C. § 31-3201(5); \$75.00 reimbursement to the Victims Compensation Fund pursuant to I.C. § 72-1025; \$3.00 for the Peace Officer Temporary Disability Fund pursuant to I.C. § 72-1105; Emergency Surcharge Fee in the amount of \$100.00 pursuant to I.C. § 31-3201H, to be paid through the Clerk of the District Court.

COUNT I: (Misdemeanor): The Defendant shall serve thirty (30) days in the Ada County Jail, with credit for one (1) day served, to run concurrently with Count II and Count III. The Defendant shall also pay court costs in the amount of seventeen dollars fifty cents (\$17.50); Criminal Justice Fee of ten dollars (\$10.00); P.O.S.T. Fee of fifteen dollars (\$15.00); Victim Notification Fee (VINE), pursuant to I.C. §31-3204, in the amount of fifteen dollars (\$15.00); ISTARs Fee of ten dollars (\$10.00); Peace Officer Temporary Disability Fee of three dollars (\$3.00); Victim's Compensation Fund in the amount of thirty seven dollars (\$37.00); and Emergency Surcharge Fee of fifty dollars (\$50.00).

COUNT III: (Misdemeanor): The Defendant shall serve thirty (30) days in the Ada County Jail, with credit for one (1) day served, to run concurrently with Count I and Count II.

The Defendant shall also pay court costs in the amount of seventeen dollars fifty cents (\$17.50); Criminal Justice Fee of ten dollars (\$10.00); P.O.S.T. Fee of fifteen dollars (\$15.00); Victim Notification Fee (VINE), pursuant to I.C. §31-3204, in the amount of fifteen dollars (\$15.00); ISTARS Fee of ten dollars (\$10.00); Peace Officer Temporary Disability Fee of three dollars (\$3.00); Victim's Compensation Fund in the amount of thirty seven dollars (\$37.00); and Emergency Surcharge Fee of fifty dollars (\$50.00).

The parties were not prepared to stipulate to restitution. The state is directed to notice restitution for hearing if the parties cannot stipulate to an amount within sixty (60) days.

IT IS HEREBY ORDERED that the defendant's driver's license or permit is suspended for a period of thirty (30) days commencing on October 10, 2017, during which time defendant shall have absolutely no driving privileges of any kind.

Defendant is to pay supervision of probation and parole costs in an amount not to exceed the maximum allowable by I.C. § 20-225.

This probation shall expire at midnight on October 9, 2020, unless otherwise ordered by the Court.

IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Order Withholding Judgment and Order of Probation and Commitment to the Sheriff, which shall serve as the commitment of the defendant.

NOTICE OF RIGHT TO APPEAL

You, MOHAMAD BAKIR ALI HABEB, are hereby notified that you have the right to appeal this order to the Idaho Supreme Court. Any notice of appeal must be filed within forty-two (42) days from the entry of this judgment.

CERTIFICATE OF MAILING

I hereby certify that on the 12th day of October 2017, I mailed (emailed) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR'S OFFICE
VIA EMAIL

ADA COUNTY PUBLIC DEFENDER'S OFFICE
VIA EMAIL

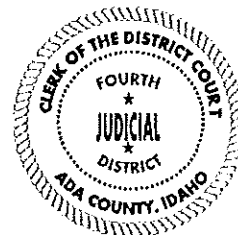
ADA COUNTY JAIL
VIA EMAIL

PROBATION AND PAROLE
VIA EMAIL

CENTRAL RECORDS
DEPARTMENT OF CORRECTION
ATTN: CCD PROBATION SENTENCING TEAM
VIA EMAIL

DRIVER SERVICES
IDAHO DEPARTMENT OF TRANSPORTATION
VIA EMAIL

CHRISTOPHER D. RICH
Clerk of the District Court



By: Shary Abbott
Deputy Court Clerk Signed: 10/12/2017 03:38 PM

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

State of Idaho

Plaintiff,

vs.

MOHMAD BAKIR ALI HABEB

Defendant.

Case No. CR01-16-35232

Notice of Restitution Hearing

Event Code: NOTH

NOTICE IS GIVEN That the above-entitled case is set for:

Hearing Type

Restitution Hearing

Date

01/18/2018

Time

3:00 PM

Judge

Richard D. Greenwood

CHRISTOPHER D. RICH

Clerk of the Court

Dated: December 11, 2017

By: *Kathy Pataro*

Deputy Clerk

CERTIFICATE OF SERVICE

I certify that on this date I served a copy of the attached to:

Michael Guy

☒ By email

Eric Rolfsen

☒ By email

MOHMAD BAKIR ALI HABEB

☒ By mail

4911 Albion 103

Boise ID 83705

Dated: December 11, 2017

By: *Kathy Pataro*

Deputy Clerk



ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

ERIC R. ROLFSEN, ISB #3731
Deputy Public Defender
200 West Front Street, Suite 1107
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,
Plaintiff,

vs.

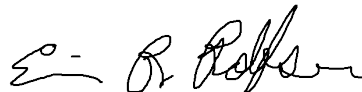
MOHAMAD BAKIR ALI HABEB,
Defendant.

Case No. CR01-16-35232

MOTION TO OBJECT STATE'S AMOUNT
OF RESTITUTION

COMES NOW, Mohamad Bakir Ali Habeb, the above-named Defendant, by and through counsel, Eric R. Rolfsen, of the Ada County Public Defender's office, and hereby objects to the State's amount of restitution.

DATED December 11, 2017.



Eric R. Rolfsen
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on December 11, 2017, I served a true and correct copy of the within instrument to the Ada County Prosecutor.



Quincy Harris

MOTION TO OBJECT STATE'S AMOUNT OF RESTITUTION

000151

FILED By: OT Deputy Clerk
 Fourth Judicial District, Ada County
 CHRISTOPHER D. RICH, Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF
 IDAHO, IN AND FOR THE COUNTY OF ADA

State of Idaho

Plaintiff,

vs.

MOHMAD BAKIR ALI HABEB

Defendant.

Case No. CR01-16-35232

Deferred Payment Agreement Felony

JUDGMENT HAVING BEEN ENTERED for the charge against the above-named defendant and for the penalty or fines, court costs, and/or restitution in the amount of \$560.50 and the defendant having shown good cause for a deferred payment;

IT IS HEREBY AGREED that the defendant is granted a deferred payment agreement for the balance of \$560.50 as follows:

Defendant to pay \$ 25.⁰⁰ on the 15th day of the month each month (each month) beginning February 2018, until paid in full.

This agreement may or may not contain amounts due for all charges. Infractions are never included in Deferred Payment Agreement.

You are further advised that an additional statutory \$2.00 handling fee will be assessed for EACH partial payment.

Dated: 1/26/18
 By: Casey Fatzinger
 Fine Enforcement
 200 W. Front Street, Boise, Idaho 83702

RECEIPT

By signing this Deferred Payment Agreement, I agree that I can afford to make payment as listed above. Additionally, I acknowledge receipt of this Agreement and state that I have read and agree to the terms of this Agreement and acknowledge that A WARRANT MAY BE ISSUED FOR MY ARREST OR THIS ACCOUNT MAY BE SENT TO A COLLECTION AGENCY IF I FAIL TO MAKE THE PAYMENTS AS AGREED.

I ACKNOWLEDGE THAT FAILURE TO PAY FINES, COSTS AND RESTITUTION AS SET FORTH HEREIN, MAY RESULT IN AN ATTACHMENT OF MY WAGES, ASSETS, AND/OR ANY COMMUNITY PROPERTY OWNED.


Mohammad
 Defendant

Description	Greenwood Pataro 02.08.18 F Casey		
Date	2/8/2018	Location	1A-CRT503
Time	Speaker	Note	
03:20:35 PM		CR01.16.35232 State v. Mohamad Habeb	
03:20:47 PM	Court	Calls case deft present on probation with counsel Eric Rolfsen. State's atty Michael Guy.	
03:20:54 PM	Court	No preliminary issues.	
03:21:01 PM	State Attorney	Statement regarding Exhibit 1, 2 and 3.	
03:21:47 PM	Court	Will call them restitution exhibits.	
03:21:55 PM	Public Defender	No for the purposes of restitution - no objection.	
03:22:08 PM	Court	Without objection - Exhibits 1 - 3 are admitted.	
03:22:12 PM	State Attorney	Calls Mazin Al-Rubaye.	
03:22:36 PM	Court	Witness sworn and testifies.	
03:24:12 PM	State Attorney	Direct examination.	
03:26:59 PM	Personal Attorney	Cross examination.	
03:30:48 PM	State Attorney	Nothing further.	
03:30:58 PM	State Attorney	Witness steps down and is excused.	
03:31:00 PM	Personal Attorney	Calls Mohamad Habeb.	
03:31:46 PM	Personal Attorney	Direct examination.	
03:33:10 PM	State Attorney	No questions.	
03:33:46 PM	Court	Witness steps down.	
03:33:49 PM	State Attorney	Argument on restitution.	
03:39:18 PM	Personal	Argument on restitution.	

	Attorney	
03:42:30 PM	State Attorney	Nothing further.
03:42:37 PM	Court	Will take this under advisement and will issue a decision.
03:42:52 PM	End.	
03:42:52 PM		
03:42:52 PM		

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www.fortherecord.com

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
)	
Plaintiff,	)	Case No. CR-01-16-35232
vs.)	
	)	ORDER ON RESTITUTION
MOHAMAD BAKIR ALI HABEB,)	
)	
)	
Defendant.)	
)	

This matter is before the Court to determine restitution due for the damage done to one 2011 Hyundai Elantra with the baseball bat wielded by Defendant. In this case the burden is on the claimant to prove by a preponderance of the evidence the damage done by Defendant's conduct. The evidence in this case is sparse and, to some extent, of questionable reliability. The victim of the physical assault, Hazim Al-Rubaye, presented the sole testimony at the restitution hearing. The restitution requested is for damage done to the car driven by Mr. Al-Rubaye at the time of the assault. The car is owned by his father. The father is the victim as concerns the malicious injury to property count. For whatever reason, he chose not to appear or testify at the restitution hearing. Three exhibits were admitted without objection – a repair estimate from Lithia Body and Paint, an invoice for a repair done by Vista Auto Repair, and a printout from the

Kelly Blue Book website. In addition, the Court took into consideration testimony from the trial and the information in the pre-sentence investigation report.¹

Mr. Al-Rubaye testified that the car was in good condition with no dents or body defects other than some missing paint on the bumpers due to repeated washing of the after-market bumper. He attributed all of the repairs done to the car, including the Vista Auto invoice, to the beating the car took at the hands of Defendant Habeb. Defendant Habeb testified he only struck the car in the rear and over the driver door. He denied striking the front of the car. The Court finds Mr. Habeb's testimony not credible. Felecia Dusenbery was on the scene near the parking lot on a smoke break from work when the attack started. She testified at the trial that she witnessed the Defendant strike the vehicle near the driver's door and towards the front end before she went in to call the police. The Court finds her testimony credible and more accurate than that of the Defendant.

The invoice for the Vista Auto Repair bill is not entirely consistent with the testimony of Mr. Al-Rubaye. His explanation was that a "negative wire got broke from the hitting" and caused the check engine light to come on. This is based on what his father told him. His father was relating what the repairman told the father. This is not just hearsay, but double hearsay. While it may be admissible in a restitution hearing,² that does not mean it is reliable. The invoice itself reflects the bill was for "found short in power box, fix it replace blown fuse 10 amp, also perform fuel system service, clean int. manifold throttle body, reset CEL, [illegible] throttle position. After that engine runs OK w/o problem." There is no apparent link between the need

¹ The PSI information on restitution consists of a copy of the same repair estimate offered at the hearing.

² "...the court may consider such hearsay as may be contained in the presentence report, victim impact statement or otherwise provided to the court..." Idaho Code Ann. § 19-5304.

to service the fuel system and the beating the car took. The short, the power box may be related, but it is likewise not obvious from the context. This evidence is short of meeting the burden of proof that this bill is related to the crime; it will not be allowed.

On cross-examination, Mr. Al-Rubaye testified that the car was purchased by his father. The car was “rebuilt” and apparently has a salvage title.³ It can safely be said that the value of a vehicle or vessel with a salvage title is less than that for a vehicle or vessel with a “clean” title, all else being equal. This is reflected in the fact that it is a crime to sell a salvage motor vehicle without telling the buyer the vehicle has been totaled.⁴ What cannot be safely said is by how much the value is decreased. No evidence of the value of the vehicle with a salvage title was introduced. Mr. Al-Rubaye did not know what was paid for the car originally or how much was spent rebuilding it. Mr. Al-Rubaye senior did not testify. The value of the car is important in this case because the cost of repair sought, \$6,060, is very close to the lower end of the value of the car as shown by Kelly Blue Book. If the cost of repair exceeds the value of the car, the victim is entitled to the value, not the cost of repair. A single estimate from an internet website is hardly designed to give the Court confidence in the accuracy of the information. An appraisal of the

³Idaho Code Ann. § 49-123:

...(o) Salvage vehicle or vessel.

Any vehicle or vessel for which a salvage certificate of title, salvage bill of sale or other documentation has been issued showing evidence that the vehicle or vessel has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any vehicle or vessel, such vehicle shall be considered to be a salvage vehicle or vessel.

⁴ Idaho Code Ann. § 49-524:

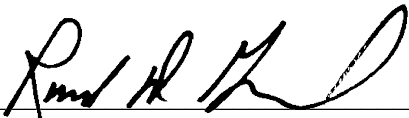
...(8) It is a misdemeanor, punishable by up to six (6) months in jail, a fine of one thousand dollars (\$1,000) or both, if the owner of a retained salvage vehicle fails to surrender the title and be issued a salvage certificate of title, or to sell the vehicle and not tell the buyer that the vehicle is totaled.

actual car would be far more persuasive. It is unknown whether the car was repaired as of the date of the hearing or if it awaits repair yet.

On the other hand, the Defendant finds himself facing a restitution hearing because he took a baseball bat to the car as part of some plan to get revenge for his then-girlfriend. He is as entitled to produce evidence at the hearing as is the state. He leaves the Court to infer, as it does, that there is a salvage vehicle involved, but does not come forth with any evidence as to the actual effect of that fact on the value of a car, let alone *this* car. Ultimately, the Court must make its decision with the evidence it has, not the evidence it wishes it had. The only evidence in the record is that the value of the car, even taken at the lowest estimate, is higher than the cost of repair. Taking the evidence available, meager as it is, into consideration, the Court finds the amount of restitution due to be \$5,860.45. A separate order will enter.

IT IS SO ORDERED.

DATED: Signed: 3/13/2018 06:43 PM



RICHARD D. GREENWOOD
District Judge

CERTIFICATE OF MAILING

I hereby certify that on the 14th day of March, 2018, I caused a true and correct copy of the foregoing document to be served by the method indicated below, and addressed to the following:

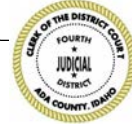
Michael Guy
ADA COUNTY PROSECUTOR'S OFFICE
VIA EMAIL

Eric Rolfsen
ADA COUNTY PUBLIC DEFENDER'S OFFICE
VIA EMAIL

CHRISTOPHER D. RICH
Clerk of the District Court

Signed: 3/14/2018 04:01 PM

By K. Patacs
Deputy Clerk



JAN M. BENNETTS
Ada County Prosecuting Attorney

Michael J. Guy
Deputy Prosecuting Attorney
Idaho State Bar No. 9395
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208) 287-7709
acpocourtdocs@adaweb.net

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,)	
	)	Case No. CR01-16-35232
vs.)	
)	
MOHAMMED HABEB,	)	ORDER FOR RESTITUTION AND
	)	JUDGMENT
Defendant.)	
_____)	

WHEREAS, ~~on the~~ _____, a Judgment of Conviction was entered against the defendant, MOHAMMED HABEB, and therefore pursuant to Idaho Code §19-5304 and based on evidence presented to this Court,

IT IS HEREBY ORDERED, that the defendant, MOHAMMED HABEB, shall make restitution to the victim(s) in the amount of **\$5,860.45**, as follows:

RESTITUTION – CRIME VICTIM

MAZIN HAZIM A AL RUBAYE	\$5,860.45
-------------------------	------------

TOTAL:	\$5,860.45
---------------	-------------------

For crime victim restitution above, pursuant to I.C. §19-5305 this Order may be recorded as a judgment against the defendant, MOHAMMED HABEB, and the listed victim(s) may execute as provided by law for civil judgments.

FURTHER, it is the responsibility of the defendant to notify the Restitution Department (208-287-7700) if at any time a victim collects by means of the civil judgment.

Post judgment interest on said restitution amount will accrue from the date of this Order and Judgment at the rate specified in Idaho Code §28-22-104.

IT IS SO ORDERED.

DATED _____

Signed: 3/19/2018 10:11 AM



Judge

CLERK'S CERTIFICATE OF MAILING

I hereby certify that on Signed: 3/19/2018 03:36 PM, I served the foregoing document upon the following attorneys, persons and agencies at the addresses listed below.

Eric R. Rolfsen
Ada County Public Defender
200 W. Front Street Rm 1107
Boise, ID 83702

☐ U.S. Mail, postage prepaid
☐ Facsimile
☒ Email
public.defender@adacounty.id.gov

Michael J. Guy
Deputy Prosecuting Attorney
200 W. Front St. Rm 3191
Boise, ID 83702

☐ U.S. Mail, postage prepaid
☐ Facsimile
☒ Email
acpocourtdocs@adaweb.net

CHRISTOPHER D. RICH
Ada County Clerk of the Court

Jana Britton
Deputy Clerk

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant-Appellant

ERIC R. ROLFSEN, ISB #3731
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

APR 02 2018

CHRISTOPHER D. RICH, Clerk
By CORTNI WELCH
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

MOHAMAD B.A. HABEB,

Defendant-Appellant.

Case No. CR-01-16-35232

NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE CLERK
OF THE ABOVE-ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named Appellant appeals against the above-named respondent to the Idaho Supreme Court from the Order of Restitution and Judgment entered against him in the above-entitled action on March 19, 2018, the Honorable Richard D. Greenwood, District Judge presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under, and pursuant to, IAR 11(c)(1-9).
3. A preliminary statement of the issues on appeal, which the Appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the Appellant from asserting other issues on appeal is:
 - a) Was there insufficient evidence to support the Order for Restitution?
4. There is a portion of the record that is sealed. That portion of the record that is sealed is the pre-sentence investigation report (PSI).
5. Reporter's Transcript. The Appellant requests the preparation of the entire reporter's standard transcript as defined by IAR 25(d). The Appellant also requests the preparation of the additional portions of the reporter's transcript:

- a) Restitution hearing held December 11, 2017 (Court Reporter: Fran Casey, no estimation of pages are listed on the Register of Actions).
6. Clerk's Record. The Appellant requests the standard clerk's record pursuant to IAR 28(b)(2). In addition to those documents automatically included under IAR 28(b)(2), Appellant also requests that any exhibits, including but not limited to letters or victim impact statements, addenda to the PSI, or other items offered at the sentencing hearing be included in the Clerk's Record.
7. I certify:
- a) That a copy of this Notice of Appeal has been served on the Court Reporter(s), Fran Casey.
 - b) That the Appellant is exempt from paying the estimated fee for the preparation of the record because the Appellant is indigent. (I.C. §§ 31-3220, 31-3220A, IAR 27(f)).
 - c) That there is no appellate filing fee since this is an appeal in a criminal case (I.C. §§ 31-3220, 31-3220A, IAR 23(a)(8)).
 - d) Ada County will be responsible for paying for the reporter's transcript, as the client is indigent (I.C. §§ 31-3220, 31-3220A, IAR 24(h)).
 - e) That service has been made upon all parties required to be served pursuant to IAR 20.

DATED this 2nd day of April 2018.


ERIC R. ROLFSEN
Attorney for Defendant

CERTIFICATE OF MAILING

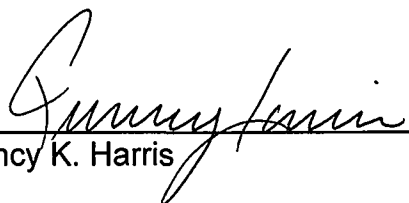
I HEREBY CERTIFY, that on this 2 day of April 2018, I mailed (served) a true and correct copy of the within instrument to:

Idaho Attorney General
Criminal Division
Joe R. Williams Bldg., 4th Flr.
Statehouse Mail

Office of the State Appellate Public Defender
322 E. Front Street, Ste 570
Boise, ID 83702

Fran Casey
Court Reporter
Interdepartmental Mail

Michael J. Guy
Ada County Prosecutor's Office
Interdepartmental Mail



Quincy K. Harris

ADA COUNTY PUBLIC DEFENDER
Attorney for Defendant
ERIC R. ROLFSEN, ISB #3731
Deputy Public Defender
200 West Front Street, Suite 1107
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

MOHAMMED HABEB,

Defendant.

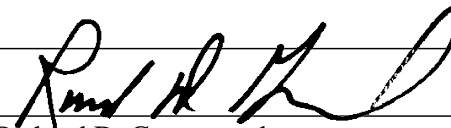
Case No. CR01-16-35232

ORDER APPOINTING STATE
APPELLATE PUBLIC DEFENDER ON
DIRECT APPEAL

Defendant has elected to pursue a direct appeal in the above-entitled matter. Defendant, being indigent and having heretofore been represented by the Ada County Public Defender in the District Court, the Court finds that, under these circumstances, appointment of appellate counsel is justified. The Idaho State Appellate Public Defender shall be appointed to represent Defendant in all matters pertaining to the direct appeal.

ORDERED: _____

Signed: 4/2/2018 10:49 PM


Richard D. Greenwood
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 9, 2018

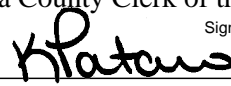
, I served a true and correct electronic copy to:

Ada County Prosecutor	acpocourtdocs@adaweb.net
Ada County Public Defender	public.defender@adacounty.id.gov
State Appellate Public Defender	documents@sapd.state.id.us

CHRISTOPHER D. RICH

Ada County Clerk of the Court

Signed: 4/9/2018 09:55 AM


Deputy Clerk



JUN 05 2018

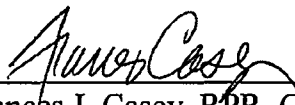
CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

In the Supreme Court of the State of Idaho

State of Idaho	)	Docket No. 45949-2018
Plaintiff-Respondent)	
v)	
Mohamad B.A. Habeb,)	
Defendant-Appellant)	

Notice of Transcript Lodged

Notice is hereby given that on April 30, 2018,
I lodged one (1) original and three (3) copies of transcripts
for a total of 27 pages in length,
as listed below, for the above referenced appeal with
the District Court Clerk of Ada County, Fourth Judicial District.



Frances J. Casey, RPR, CSR No. 696

TRANSCRIPT LODGED

Restitution Hearing – February 8, 2018

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

MOHAMAD BAKIR ALI HABEB,

Defendant-Appellant.

Supreme Court Case No. 45949

CERTIFICATE OF EXHIBITS

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

That the attached list of exhibits is a true and accurate copy of the exhibits being forwarded to the Supreme Court on Appeal.

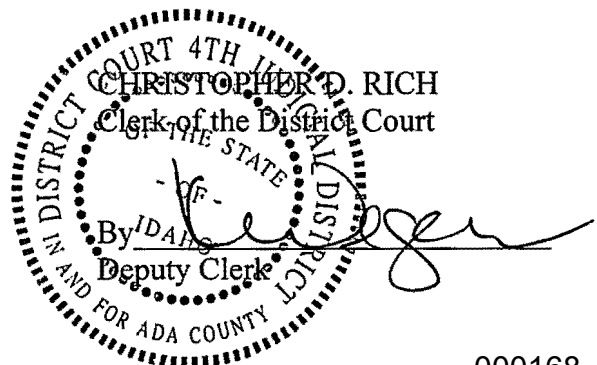
I FURTHER CERTIFY, that the following documents will be submitted as CONFIDENTIAL EXHIBITS to the Record:

1. Presentence Investigation Report.

I FURTHER CERTIFY, that the following documents will be submitted as EXHIBITS to the Record:

1. Transcript of Preliminary Hearing held February 16, 2017, Boise, Idaho, filed July 28, 2017

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 6th day of June, 2018.



IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

HONORABLE RICHARD D. GREENWOOD

CLERK: KATHY PATARO

COURT REPORTER: FRAN CASEY

STATE OF IDAHO,

Plaintiff,

vs.

MOHMAD HABEB,

Defendant,

Case No. CR01.16.35232

EXHIBIT LIST

Counsel for Plaintiff: Michael Guy

Counsel for Defendant: Eric Rolfsen

PLAINTIFF'S EXHIBITS

1 Photograph of driver's side bumper	Admitted	08.14.17
2 Photograph of the driver's side headlight	Admitted	08.14.17
3 Photograph of close up of the dent on the side door	Admitted	08.14.17
4 Photograph of dent in rear passage side of car	Admitted	08.14.17
5 Photograph of dent in driver's car door	Admitted	08.14.17
6 Estimate for repair for the car	Admitted	08.16.17

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

HONORABLE RICHARD D. GREENWOOD
CLERK: KATHY PATARO
COURT REPORTER: FRAN CASEY

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.) Case No. CR01.16.35232
)
MOHAMAD HABEB,) **EXHIBIT LIST**
)
Defendant,)
)
Counsel for Plaintiff: Michael Guy
Counsel for Defendant: Eric Rolfsen

PLAINTIFF'S EXHIBITS

1	Kelley Blue Book Pricing Report	Admitted	02.08.18
2	Lithia Body & Paint Estimate	Admitted	02.08.18
3	Vista Auto Repair Receipt	Admitted	02.08.18

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,
vs.
MOHAMAD BAKIR ALI HABEB,

Defendant-Appellant.

Supreme Court Case No. 45949

CERTIFICATE OF SERVICE

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of the following:

CLERK'S RECORD AND REPORTER'S TRANSCRIPT

to each of the Attorneys of Record in this cause as follows:

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

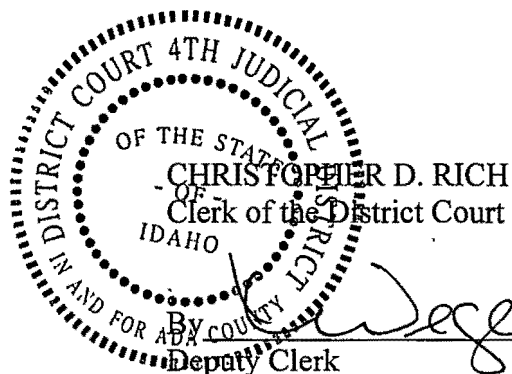
LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

Date of Service: _____

JUN 06 2018



CERTIFICATE OF SERVICE

000171

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,
vs.
MOHAMAD BAKIR ALI HABEB,

Defendant-Appellant.

Supreme Court Case No. 45949


CERTIFICATE TO RECORD

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the above and foregoing record in the above-entitled cause was compiled under my direction and is a true and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsel.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 2nd day of April, 2018.

DISTRICT COURT 4TH JUD
OF THE STATE OF IDAHO
- OF -
By Christopher D. Rich
Deputy Clerk

CHRISTOPHER D. RICH
Clerk of the District Court



CERTIFICATE TO RECORD

000172